

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 1 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

Color Key (All changes from the Proposed Regulations to Final Regulations are Highlighted in Grey):

Grey – Items amended based on EPA 12-21-07 comments and comments received during 60-day comment period, items amended based on EPA 04-21-08 comments, and items amended based on Attorney General and final staff technical review.

4VAC50-60-10. Definitions.

The following words and terms used in this chapter have the following meanings unless the context clearly indicates otherwise.

"Adequate channel" means a channel that will convey the designated frequency storm event without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

"Administrator" means the Administrator of the United States Environmental Protection Agency or an authorized representative.

"Applicable standards and limitations" means all state, interstate, and federal standards and limitations to which a discharge or a related activity is subject under the Clean Water Act (CWA) (33 USC §1251 et seq.) and the Act, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, and standards for sewage sludge use or disposal under §§301, 302, 303, 304, 306, 307, 308, 403 and 405 of CWA.

"Approval authority" means the Virginia Soil and Water Conservation Board or their designee.

"Approved program" or "approved state" means a state or interstate program that has been approved or authorized by EPA under 40 CFR Part 123 (2000).

"Aquatic bench" means a 10- to 15-foot wide bench around the inside perimeter of a permanent pool that ranges in depth from zero to 12 inches. Vegetated with emergent plants,

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 2 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

the bench augments pollutant removal, provides habitats, conceals trash and water level fluctuations, and enhances safety.

"Average land cover condition" means a measure of the average amount of impervious surfaces within a watershed, assumed to be 16%. Note that a locality may opt to calculate actual watershed-specific values for the average land cover condition based upon 4VAC50-60-110.

"Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

"Average weekly discharge limitation" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

"Best management practice (BMP)" means schedules of activities, prohibitions of practices, including both a structural or nonstructural practice, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Bioretention basin" means a water quality BMP engineered to filter the water quality volume through an engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch, ground cover), planting soil, and sand bed, and into the in-situ material.

"Bioretention filter" means a bioretention basin with the addition of a sand filter collector pipe system beneath the planting bed.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 3 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

49 "Board" means the Virginia Soil and Water Conservation Board.

50 "Bypass" means the intentional diversion of waste streams from any portion of a treatment
51 facility.

52 "Channel" means a natural or manmade waterway.

53 "Constructed wetlands" means areas intentionally designed and created to emulate the
54 water quality improvement function of wetlands for the primary purpose of removing pollutants
55 from stormwater.

56 "Construction activity" means any clearing, grading or excavation associated with large
57 construction activity or associated with small construction activity.

58 "Contiguous zone" means the entire zone established by the United States under Article 24
59 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR 11906).

60 "Continuous discharge" means a discharge which occurs without interruption throughout the
61 operating hours of the facility, except for infrequent shutdowns for maintenance, process
62 changes, or other similar activities.

63 "Control measure" means any best management practice or other method used to prevent
64 or reduce the discharge of pollutants to surface waters.

65 "~~Co-permittee~~ Co-operator" means ~~a permittee~~ an operator to a VSMP permit that is only
66 responsible for permit conditions relating to the discharge for which it is the operator.

67 "CWA" means the federal Clean Water Act (33 USC §1251 et seq.), formerly referred to as
68 the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of
69 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law
70 96-483, and Public Law 97-117, or any subsequent revisions thereto.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 4 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

71 "CWA and regulations" means the Clean Water Act (CWA) and applicable regulations
72 promulgated thereunder. For the purposes of this chapter, it includes state program
73 requirements.

74 "Daily discharge" means the discharge of a pollutant measured during a calendar day or any
75 24-hour period that reasonably represents the calendar day for purposes of sampling. For
76 pollutants with limitations expressed in units of mass, the daily discharge is calculated as the
77 total mass of the pollutant discharged over the day. For pollutants with limitations expressed in
78 other units of measurement, the daily discharge is calculated as the average measurement of
79 the pollutant over the day.

80 "Department" means the Department of Conservation and Recreation.

81 "Development" means a tract of land developed or to be developed as a unit under single
82 ownership or unified control which is to be used for any business or industrial purpose or is to
83 contain three or more residential dwelling units.

84 "Direct discharge" means the discharge of a pollutant.

85 "Director" means the Director of the Department of Conservation and Recreation or his
86 designee.

87 "Discharge," when used without qualification, means the discharge of a pollutant.

88 "Discharge of a pollutant" means:

89 1. Any addition of any pollutant or combination of pollutants to surface waters from any
90 point source; or

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 5 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

2. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into surface waters from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

"Discharge Monitoring Report (~~DMR~~)" or "DMR" means the form supplied by the department, or an equivalent form developed by the ~~permittee~~ operator and approved by the board, for the reporting of self-monitoring results by ~~permittees~~ operators.

"Draft permit" means a document indicating the board's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination is not a draft permit. A proposed permit is not a draft permit.

"Effluent limitation" means any restriction imposed by the board on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into surface waters, the waters of the contiguous zone, or the ocean.

"Effluent limitations guidelines" means a regulation published by the administrator under §304(b) of the CWA to adopt or revise effluent limitations.

"Environmental Protection Agency (EPA)" means the United States Environmental Protection Agency.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 6 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

114 "Existing permit" means for the purposes of this chapter a permit issued by the permit-
115 issuing authority and currently held by a permit applicant.

116 "Existing source" means any source that is not a new source or a new discharger.

117 "Facilities or equipment" means buildings, structures, process or production equipment or
118 machinery that form a permanent part of a new source and that will be used in its operation, if
119 these facilities or equipment are of such value as to represent a substantial commitment to
120 construct. It excludes facilities or equipment used in connection with feasibility, engineering, and
121 design studies regarding the new source or water pollution treatment for the new source.

122 "Facility or activity" means any VSMP point source or treatment works treating domestic
123 sewage or any other facility or activity (including land or appurtenances thereto) that is subject
124 to regulation under the VSMP program.

125 "Flooding" means a volume of water that is too great to be confined within the banks or walls
126 of the stream, water body or conveyance system and that overflows onto adjacent lands,
127 causing or threatening damage.

128 "General permit" means a VSMP permit authorizing a category of discharges under the
129 CWA and the Act within a geographical area.

130 "Grassed swale" means an earthen conveyance system which is broad and shallow with
131 erosion resistant grasses and check dams, engineered to remove pollutants from stormwater
132 runoff by filtration through grass and infiltration into the soil.

133 "Hazardous substance" means any substance designated under the Code of Virginia and 40
134 CFR Part 116 (2000) pursuant to §311 of the CWA.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 7 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

135 "Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent
136 version of Virginia's 6th Order National Watershed Boundary Dataset.

137 "Illicit discharge" means any discharge to a municipal separate storm sewer that is not
138 composed entirely of stormwater, except discharges pursuant to a VPDES or VSMP permit
139 (other than the VSMP permit for discharges from the municipal separate storm sewer),
140 discharges resulting from fire fighting activities, and discharges identified by and in compliance
141 with 4VAC50-60-1220 C 2.

142 "Impervious cover" means a surface composed of any material that significantly impedes or
143 prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to,
144 roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

145 "Incorporated place" means a city, town, township, or village that is incorporated under the
146 Code of Virginia.

147 "Indian country" means (i) all land within the limits of any Indian reservation under the
148 jurisdiction of the United States government, notwithstanding the issuance of any patent, and
149 including rights-of-way running through the reservation; (ii) all dependent Indian communities
150 with the borders of the United States whether within the originally or subsequently acquired
151 territory thereof, and whether within or without the limits of a state; and (iii) all Indian allotments,
152 the Indian titles to which have not been extinguished, including rights-of-way running through
153 the same.

154 "Indirect discharger" means a nondomestic discharger introducing "pollutants" to a "publicly
155 owned treatment works (POTW)."

156 ~~"Individual control strategy" means a final VSMP permit with supporting documentation~~
157 ~~showing that effluent limits are consistent with an approved wasteload allocation or other~~

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 8 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

158 ~~documentation that shows that applicable water quality standards will be met not later than~~
159 ~~three years after the individual control strategy is established.~~

160 "Infiltration facility" means a stormwater management facility that temporarily impounds
161 runoff and discharges it via infiltration through the surrounding soil. While an infiltration facility
162 may also be equipped with an outlet structure to discharge impounded runoff, such discharge is
163 normally reserved for overflow and other emergency conditions. Since an infiltration facility
164 impounds runoff only temporarily, it is normally dry during nonrainfall periods. Infiltration basin,
165 infiltration trench, infiltration dry well, and porous pavement shall be considered infiltration
166 facilities.

167 "Inspection" means an on-site review of the project's compliance with the permit, the local
168 stormwater management program, and any applicable design criteria, or an on-site review to
169 obtain information or conduct surveys or investigations necessary in the enforcement of the Act
170 and this chapter.

171 "Interstate agency" means an agency of two or more states established by or under an
172 agreement or compact approved by Congress, or any other agency of two or more states
173 having substantial powers or duties pertaining to the control of pollution as determined and
174 approved by the administrator under the CWA and regulations.

175 "Land disturbance" or "land-disturbing activity" means a manmade change to the land
176 surface that potentially changes its runoff characteristics including any clearing, grading, or
177 excavation associated with a construction activity regulated pursuant to the federal Clean Water
178 Act, the Act, and this chapter.

179 "Large construction activity" means construction activity including clearing, grading and
180 excavation, except operations that result in the disturbance of less than five acres of total land

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 9 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

181 area. Large construction activity also includes the disturbance of less than five acres of total
182 land area that is a part of a larger common plan of development or sale if the larger common
183 plan will ultimately disturb five acres or more.

184 "Large municipal separate storm sewer system" means all municipal separate storm sewers
185 that are either:

186 1. Located in an incorporated place with a population of 250,000 or more as determined
187 by the ~~latest~~ 1990 decennial census by the Bureau of Census (40 CFR Part 122
188 Appendix F (2000));

189 2. Located in the counties listed in 40 CFR Part 122 Appendix H (2000), except
190 municipal separate storm sewers that are located in the incorporated places, townships
191 or towns within such counties;

192 3. Owned or operated by a municipality other than those described in subdivision 1 or 2
193 of this definition and that are designated by the board as part of the large or medium
194 municipal separate storm sewer system due to the interrelationship between the
195 discharges of the designated storm sewer and the discharges from municipal separate
196 storm sewers described under subdivision 1 or 2 of this definition. In making this
197 determination the board may consider the following factors:

198 a. Physical interconnections between the municipal separate storm sewers;

199 b. The location of discharges from the designated municipal separate storm sewer
200 relative to discharges from municipal separate storm sewers described in subdivision
201 1 of this definition;

202 c. The quantity and nature of pollutants discharged to surface waters;

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

203 d. The nature of the receiving surface waters; and

204 e. Other relevant factors.

205 4. The board may, upon petition, designate as a large municipal separate storm sewer
206 system, municipal separate storm sewers located within the boundaries of a region
207 defined by a stormwater management regional authority based on a jurisdictional,
208 watershed, or other appropriate basis that includes one or more of the systems
209 described in this definition.

210 "Linear development project" means a land-disturbing activity that is linear in nature such as,
211 but not limited to, (i) the construction of electric and telephone utility lines, and natural gas
212 pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other
213 related structures of a railroad company; and (iii) highway construction projects.

214 "Local stormwater management program" or "local program" means a statement of the
215 various methods employed by a locality to manage the quality and quantity of runoff resulting
216 from land-disturbing activities and shall include such items as local ordinances, permit
217 requirements, policies and guidelines, technical materials, inspection, enforcement, and
218 evaluation consistent with the Act and this chapter. The ordinance shall include provisions to
219 require the control of after-development stormwater runoff rate of flow, the proper maintenance
220 of stormwater management facilities, and minimum administrative procedures.

221 "Locality" means a county, city, or town.

222 "Major facility" means any VSMP facility or activity classified as such by the regional
223 administrator in conjunction with the board.

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

224 "Major modification" means, for the purposes of this chapter, the modification or amendment
225 of an existing permit before its expiration that is not a minor modification as defined in this
226 regulation.

227 "Major municipal separate storm sewer outfall (or major outfall)" means a municipal separate
228 storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or
229 more or its equivalent (discharge from a single conveyance other than circular pipe which is
230 associated with a drainage area of more than 50 acres); or for municipal separate storm sewers
231 that receive stormwater from lands zoned for industrial activity (based on comprehensive zoning
232 plans or the equivalent), with an outfall that discharges from a single pipe with an inside
233 diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe
234 associated with a drainage area of two acres or more).

235 "Manmade" means constructed by man.

236 "Maximum daily discharge limitation" means the highest allowable daily discharge.

237 "Maximum extent practicable" or "MEP" means the technology-based discharge standard for
238 municipal separate storm sewer systems established by CWA §402(p). MEP is achieved, in
239 part, by selecting and implementing effective structural and nonstructural best management
240 practices (BMPs) and rejecting [ineffective] BMPs [only when the BMPs would not be
241 technically feasible or the cost would be prohibitive and unreasonable and replacing them with
242 effective best management practices (BMPs)]. MEP is an iterative standard, which evolves over
243 time as urban runoff management knowledge increases. As such, the operator's MS4 program
244 must continually be assessed and modified to incorporate improved programs, control
245 measures, BMPs, etc., to [maintain attain] compliance with water quality standards.

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

246 "Medium municipal separate storm sewer system" means all municipal separate storm
247 sewers that are either:

248 1. Located in an incorporated place with a population of 100,000 or more but less than
249 250,000 as determined by the ~~latest~~ 1990 decennial census by the Bureau of Census
250 (40 CFR Part 122 Appendix G (2000));

251 2. Located in the counties listed in 40 CFR Part 122 Appendix I (2000), except municipal
252 separate storm sewers that are located in the incorporated places, townships or towns
253 within such counties;

254 3. Owned or operated by a municipality other than those described in subdivision 1 or 2
255 of this definition and that are designated by the board as part of the large or medium
256 municipal separate storm sewer system due to the interrelationship between the
257 discharges of the designated storm sewer and the discharges from municipal separate
258 storm sewers described under subdivision 1 or 2 of this definition. In making this
259 determination the board may consider the following factors:

- 260 a. Physical interconnections between the municipal separate storm sewers;
- 261 b. The location of discharges from the designated municipal separate storm sewer
262 relative to discharges from municipal separate storm sewers described in subdivision
263 1 of this definition;
- 264 c. The quantity and nature of pollutants discharged to surface waters;
- 265 d. The nature of the receiving surface waters; or
- 266 e. Other relevant factors.

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

4. The board may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in subdivisions 1, 2 and 3 of this definition.

"Minor modification" means, for the purposes of this chapter, minor modification or amendment of an existing permit before its expiration as specified in 4VAC50-60-640. Minor modification for the purposes of this chapter also means other modifications and amendments not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor permit modification or amendment does not substantially alter permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

"Municipal separate storm sewer" means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains:

1. Owned or operated by a federal, state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction or delegated authority for erosion and sediment control and stormwater management, or a designated and approved management agency under §208 of the CWA that discharges to surface waters;

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

2. Designed or used for collecting or conveying stormwater;

3. That is not a combined sewer; and

4. That is not part of a publicly owned treatment works.

"Municipal separate storm sewer system" or "MS4" means all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems or designated under 4VAC50-60-380 A 1.

"Municipal Separate Storm Sewer System Management Program" or "MS4 Program" means a management program covering the duration of a permit for a municipal separate storm sewer system that includes a comprehensive planning process that involves public participation and intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and regulations and the Virginia Stormwater Management Act and attendant regulations. using management practices, control techniques, and system, design and engineering methods, and such other provisions that are appropriate.

"Municipality" means a city, town, county, district, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under §208 of the CWA.

"National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under §§307, 402, 318, and 405 of the CWA. The term includes an approved program.

"New discharger" means any building, structure, facility, or installation:

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

- 313 1. From which there is or may be a discharge of pollutants;
- 314 2. That did not commence the discharge of pollutants at a particular site prior to August
- 315 13, 1979;
- 316 3. Which is not a new source; and
- 317 4. Which has never received a finally effective VPDES or VSMP permit for discharges at
- 318 that site.

319 This definition includes an indirect discharger that commences discharging into surface

320 waters after August 13, 1979. It also includes any existing mobile point source (other than an

321 offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental

322 drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant,

323 that begins discharging at a site for which it does not have a permit; and any offshore or coastal

324 mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig

325 that commences the discharge of pollutants after August 13, 1979.

326 "New permit" means, for the purposes of this chapter, a permit issued by the permit-issuing

327 authority to a permit applicant that does not currently hold and has never held a permit of that

328 type, for that activity, at that location.

329 "New source," means any building, structure, facility, or installation from which there is or

330 may be a discharge of pollutants, the construction of which commenced:

- 331 1. After promulgation of standards of performance under §306 of the CWA that are
- 332 applicable to such source; or

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

2. After proposal of standards of performance in accordance with §306 of the CWA that are applicable to such source, but only if the standards are promulgated in accordance with §306 of the CWA within 120 days of their proposal.

"Nonpoint source pollution" means pollution such as sediment, nitrogen and phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater runoff.

"Nonpoint source pollutant runoff load" or "pollutant discharge" means the average amount of a particular pollutant measured in pounds per year, delivered in a diffuse manner by stormwater runoff.

"Operator" means the owner or operator of any facility or activity subject to regulation under the VSMP program. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit conditions (i.e., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions). [In the context of stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s), operator means the operator of the regulated MS4 system.]

"Outfall" means, when used in reference to municipal separate storm sewers, a point source at the point where a municipal separate storm sewer discharges to surface waters and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

356 or other conveyances which connect segments of the same stream or other surface waters and
357 are used to convey surface waters.

358 "Overburden" means any material of any nature, consolidated or unconsolidated, that
359 overlies a mineral deposit, excluding topsoil or similar naturally occurring surface materials that
360 are not disturbed by mining operations.

361 "Owner" means the Commonwealth or any of its political subdivisions including, but not
362 limited to, sanitation district commissions and authorities, and any public or private institution,
363 corporation, association, firm or company organized or existing under the laws of this or any
364 other state or country, or any officer or agency of the United States, or any person or group of
365 persons acting individually or as a group that owns, operates, charters, rents, or otherwise
366 exercises control over or is responsible for any actual or potential discharge of sewage,
367 industrial wastes, or other wastes to state waters, or any facility or operation that has the
368 capability to alter the physical, chemical, or biological properties of state waters in contravention
369 of §62.1-44.5 of the Code of Virginia, the Act and this chapter.

370 "Percent impervious" means the impervious area within the site divided by the area of the
371 site multiplied by 100.

372 "Permit" means an approval issued by the permit-issuing authority for the initiation of a land-
373 disturbing activity or for stormwater discharges from an MS4. Permit does not include any
374 permit that has not yet been the subject of final permit-issuing authority action, such as a draft
375 permit or a proposed permit.

376 "Permit-issuing authority" means the board, the department, or a locality that is delegated
377 authority by the board to issue, deny, revoke, terminate, or amend stormwater permits under the
378 provisions of the Act and this chapter.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 18 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

"Permittee" means the person or locality to which the permit is issued, including any operator whose construction site is covered under a construction general permit.

"Person" means any individual, corporation, partnership, firm, association, joint venture, ~~public or private or municipal corporation, trust, estate, state, municipality, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any a state, governmental body (including but not limited to a federal, state, or local entity), any interstate or governmental body or any other legal entity.~~

"Planning area" means a designated portion of the parcel on which the land development project is located. Planning areas shall be established by delineation on a master plan. Once established, planning areas shall be applied consistently for all future projects.

"Point source" means any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC §2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

1. Sewage from vessels; or
2. Water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well

402 if the well used either to facilitate production or for disposal purposes is approved by the
403 board and if the board determines that the injection or disposal will not result in the
404 degradation of ground or surface water resources.

405 "Pollution" means such alteration of the physical, chemical or biological properties of any
406 state waters as will or is likely to create a nuisance or render such waters (a) harmful or
407 detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or
408 aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future
409 sources of public water supply; or (c) unsuitable for recreational, commercial, industrial,
410 agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or
411 biological property of state waters, or a discharge or deposit of sewage, industrial wastes or
412 other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but
413 which, in combination with such alteration of or discharge or deposit to state waters by other
414 owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into
415 state waters; and (iii) contributing to the contravention of standards of water quality duly
416 established by the State Water Control Board, are "pollution" for the terms and purposes of this
417 chapter.

418 "Post-development" refers to conditions that reasonably may be expected or anticipated to
419 exist after completion of the land development activity on a specific site or tract of land.

420 "Pre-development" refers to the conditions that exist at the time that plans for the land
421 development of a tract of land are approved by the plan approval authority. Where phased
422 development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing
423 conditions at the time prior to the first item being approved or permitted shall establish pre-
424 development conditions.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 20 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

425 "Privately owned treatment works (PVOTW)" means any device or system that is (i) used to
426 treat wastes from any facility whose operator is not the operator of the treatment works and (ii)
427 not a POTW.

428 "Proposed permit" means a VSMP permit prepared after the close of the public comment
429 period (and, when applicable, any public hearing and administrative appeals) that is sent to EPA
430 for review before final issuance. A proposed permit is not a draft permit.

431 "Publicly owned treatment works (POTW)" means a treatment works as defined by §212 of
432 the CWA that is owned by a state or municipality (as defined by §502(4) of the CWA). This
433 definition includes any devices and systems used in the storage, treatment, recycling, and
434 reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers,
435 pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The
436 term also means the municipality as defined in §502(4) of the CWA, that has jurisdiction over
437 the indirect discharges to and the discharges from such a treatment works.

438 "Recommencing discharger" means a source that recommences discharge after terminating
439 operations.

440 "Regional administrator" means the Regional Administrator of Region III of the
441 Environmental Protection Agency or the authorized representative of the regional administrator.

442 "Regional (watershed-wide) stormwater management facility" or "regional facility" means a
443 facility or series of facilities designed to control stormwater runoff from a specific watershed,
444 although only portions of the watershed may experience land development.

445 "Regional (watershed-wide) stormwater management plan" or "regional plan" means a
446 document containing material describing how runoff from open space, existing development and

447 future planned development areas within a watershed will be controlled by coordinated design
448 and implementation of regional stormwater management facilities.

449 "Revoked permit" means, for the purposes of this chapter, an existing permit that is
450 terminated by the board before its expiration.

451 "Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as
452 runoff.

453 "Runoff" or "stormwater runoff" means that portion of precipitation that is discharged across
454 the land surface or through conveyances to one or more waterways.

455 "Sand filter" means a contained bed of sand that acts to filter the first flush of runoff. The
456 runoff is then collected beneath the sand bed and conveyed to an adequate discharge point or
457 infiltrated into the in-situ soils.

458 "Schedule of compliance" means a schedule of remedial measures included in a permit,
459 including an enforceable sequence of interim requirements (for example, actions, operations, or
460 milestone events) leading to compliance with the Act, the CWA and regulations.

461 "Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

462 "Severe property damage" means substantial physical damage to property, damage to the
463 treatment facilities that causes them to become inoperable, or substantial and permanent loss of
464 natural resources that can reasonably be expected to occur in the absence of a bypass. Severe
465 property damage does not mean economic loss caused by delays in production.

466 "Shallow marsh" means a zone within a stormwater extended detention basin that exists
467 from the surface of the normal pool to a depth of six to 18 inches, and has a large surface area

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

and, therefore, requires a reliable source of baseflow, groundwater supply, or a sizeable drainage area, to maintain the desired water surface elevations to support emergent vegetation.

"Significant materials" means, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under §101(14) of CERCLA (42 USC §9601(14)); any chemical the facility is required to report pursuant to §313 of Title III of SARA (42 USC §11023); fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

"Single jurisdiction" means, for the purposes of this chapter, a single county or city. The term county includes incorporated towns which are part of the county.

"Site" means the land or water area where any facility or activity is physically located or conducted, a parcel of land being developed, or a designated planning area in which the land development project is located.

"Small construction activity" means:

1. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre, or equal to or greater than 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act, and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

491 does not include routine maintenance that is performed to maintain the original line and
492 grade, hydraulic capacity, or original purpose of the facility. The board may waive the
493 otherwise applicable requirements in a general permit for a stormwater discharge from
494 construction activities that disturb less than five acres where stormwater controls are not
495 needed based on a "total maximum daily load" (TMDL) approved or established by EPA
496 that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require
497 TMDLs, an equivalent analysis that determines allocations for small construction sites
498 for the pollutant(s) of concern or that determines that such allocations are not needed to
499 protect water quality based on consideration of existing in-stream concentrations,
500 expected growth in pollutant contributions from all sources, and a margin of safety. For
501 the purpose of this subdivision, the pollutant(s) of concern include sediment or a
502 parameter that addresses sediment (such as total suspended solids, turbidity or siltation)
503 and any other pollutant that has been identified as a cause of impairment of any water
504 body that will receive a discharge from the construction activity. The operator must
505 certify to the board that the construction activity will take place, and stormwater
506 discharges will occur, within the drainage area addressed by the TMDL or equivalent
507 analysis.

508 2. Any other construction activity designated by the either the board or the EPA regional
509 administrator, based on the potential for contribution to a violation of a water quality
510 standard or for significant contribution of pollutants to surface waters.

511 "Small municipal separate storm sewer system" or "small MS4" means all separate storm
512 sewers that are (i) owned or operated by the United States, a state, city, town, borough, county,
513 parish, district, association, or other public body (created by or pursuant to state law) having

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 24 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

514 jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including
515 special districts under state law such as a sewer district, flood control district or drainage district,
516 or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated
517 and approved management agency under §208 of the CWA that discharges to surface waters
518 and (ii) not defined as "large" or "medium" municipal separate storm sewer systems or
519 designated under 4VAC50-60-380 A 1. This term includes systems similar to separate storm
520 sewer systems in municipalities, such as systems at military bases, large hospital or prison
521 complexes, and highway and other thoroughfares. The term does not include separate storm
522 sewers in very discrete areas, such as individual buildings.

523 "Source" means any building, structure, facility, or installation from which there is or may be
524 a discharge of pollutants.

525 "State" means the Commonwealth of Virginia.

526 "State/EPA agreement" means an agreement between the regional administrator and the
527 state that coordinates EPA and state activities, responsibilities and programs including those
528 under the CWA and the Act.

529 "State project" means any land development project that is undertaken by any state agency,
530 board, commission, authority or any branch of state government, including state-supported
531 institutions of higher learning.

532 "State Water Control Law" means Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of the Code
533 of Virginia.

534 "State waters" means all water, on the surface and under the ground, wholly or partially
535 within or bordering the Commonwealth or within its jurisdiction, including wetlands.

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

536 "Stormwater" means precipitation that is discharged across the land surface or through
537 conveyances to one or more waterways and that may include stormwater runoff, snow melt
538 runoff, and surface runoff and drainage.

539 "Stormwater detention basin" or "detention basin" means a stormwater management facility
540 that temporarily impounds runoff and discharges it through a hydraulic outlet structure to a
541 downstream conveyance system. While a certain amount of outflow may also occur via
542 infiltration through the surrounding soil, such amounts are negligible when compared to the
543 outlet structure discharge rates and are, therefore, not considered in the facility's design. Since
544 a detention facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

545 "Stormwater discharge associated with construction activity" means a discharge of
546 pollutants in stormwater runoff from areas where land-disturbing activities (e.g., clearing,
547 grading, or excavation); construction materials or equipment storage or maintenance (e.g., fill
548 piles, borrow area, concrete truck washout, fueling); or other industrial stormwater directly
549 related to the construction process (e.g., concrete or asphalt batch plants) are located.

550 "Stormwater discharge associated with large construction activity" means the discharge of
551 stormwater from large construction activities.

552 "Stormwater discharge associated with small construction activity" means the discharge of
553 stormwater from small construction activities.

554 "Stormwater extended detention basin" or "extended detention basin" means a stormwater
555 management facility that temporarily impounds runoff and discharges it through a hydraulic
556 outlet structure over a specified period of time to a downstream conveyance system for the
557 purpose of water quality enhancement or stream channel erosion control. While a certain
558 amount of outflow may also occur via infiltration through the surrounding soil, such amounts are

negligible when compared to the outlet structure discharge rates and, therefore, are not considered in the facility's design. Since an extended detention basin impounds runoff only temporarily, it is normally dry during nonrainfall periods.

"Stormwater extended detention basin-enhanced" or "extended detention basin-enhanced" means an extended detention basin modified to increase pollutant removal by providing a shallow marsh in the lower stage of the basin.

"Stormwater management facility" means a device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

"Stormwater management plan" means a document containing material for describing how existing runoff characteristics will be maintained by a land-disturbing activity and methods for complying with the requirements of the local program or this chapter.

"Stormwater Management Program" means a program established by a locality that is consistent with the requirements of the Virginia Stormwater Management Act, this chapter and associated guidance documents.

"Stormwater Pollution Prevention Plan" (SWPPP) or "plan" means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges from the construction site or its associated land-disturbing activities. In addition the document shall describe and ensure the implementation of best management practices, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an erosion and sediment control plan, a post-construction stormwater management plan, a spill prevention control and countermeasure (SPCC) plan, and other practices that will be used to reduce pollutants in

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

582 stormwater discharges from land-disturbing activities and to assure compliance with the terms
583 and conditions of this chapter. All plans incorporated by reference into the SWPPP shall be
584 enforceable under the permit issued.

585 "Stormwater retention basin" or "retention basin" means a stormwater management facility
586 that includes a permanent impoundment, or normal pool of water, for the purpose of enhancing
587 water quality and, therefore, is normally wet, even during nonrainfall periods. Storm runoff
588 inflows may be temporarily stored above this permanent impoundment for the purpose of
589 reducing flooding, or stream channel erosion.

590 "Stormwater retention basin I" or "retention basin I" means a retention basin with the volume
591 of the permanent pool equal to three times the water quality volume.

592 "Stormwater retention basin II" or "retention basin II" means a retention basin with the
593 volume of the permanent pool equal to four times the water quality volume.

594 "Stormwater retention basin III" or "retention basin III" means a retention basin with the
595 volume of the permanent pool equal to four times the water quality volume with the addition of
596 an aquatic bench.

597 "Subdivision" means the same as defined in §15.2-2201 of the Code of Virginia.

598 "Surface waters" means:

- 599 1. All waters that are currently used, were used in the past, or may be susceptible to use
600 in interstate or foreign commerce, including all waters that are subject to the ebb and
601 flow of the tide;
602 2. All interstate waters, including interstate wetlands;

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 28 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

a. That are or could be used by interstate or foreign travelers for recreational or other purposes;

b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

c. That are used or could be used for industrial purposes by industries in interstate commerce.

4. All impoundments of waters otherwise defined as surface waters under this definition;

5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;

6. The territorial sea; and

7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA and the law, are not surface waters. Surface waters do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other agency, for the purposes of the Clean Water Act, the final authority regarding the Clean Water Act jurisdiction remains with the EPA.

"Total dissolved solids" means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136 (2000).

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

625 "Total maximum daily load" or "TMDL" means the sum of the individual wasteload
 626 allocations for point sources, load allocations (LAs) for nonpoint sources, natural background
 627 loading and [~~usually a safety factor~~ a margin of safety]. TMDLs can be expressed in terms of
 628 either mass per time, toxicity, or other appropriate measure. The TMDL process provides for
 629 point versus nonpoint source trade-offs.

630 "Toxic pollutant" means any pollutant listed as toxic under §307(a)(1) of the CWA or, in the
 631 case of sludge use or disposal practices, any pollutant identified in regulations implementing
 632 §405(d) of the CWA.

633 "Upset" means an exceptional incident in which there is unintentional and temporary
 634 noncompliance with technology based permit effluent limitations because of factors beyond the
 635 reasonable control of the ~~permittee~~ operator. An upset does not include noncompliance to the
 636 extent caused by operational error, improperly designed treatment facilities, inadequate
 637 treatment facilities, lack of preventive maintenance, or careless or improper operation.

638 "Variance" means any mechanism or provision under §301 or §316 of the CWA or under 40
 639 CFR Part 125 (2000), or in the applicable effluent limitations guidelines that allows modification
 640 to or waiver of the generally applicable effluent limitation requirements or time deadlines of the
 641 CWA. This includes provisions that allow the establishment of alternative limitations based on
 642 fundamentally different factors or on §301(c), §301(g), §301(h), §301(i), or §316(a) of the CWA.

643 "Vegetated filter strip" means a densely vegetated section of land engineered to accept
 644 runoff as overland sheet flow from upstream development. It shall adopt any natural vegetated
 645 form, from grassy meadow to small forest. The vegetative cover facilitates pollutant removal
 646 through filtration, sediment deposition, infiltration and absorption, and is dedicated for that
 647 purpose.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 30 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

648 "Virginia Pollutant Discharge Elimination System (VPDES) permit" or "VPDES permit"
649 means a document issued by the State Water Control Board pursuant to the State Water
650 Control Law authorizing, under prescribed conditions, the potential or actual discharge of
651 pollutants from a point source to surface waters and the use or disposal of sewage sludge.

652 "Virginia Stormwater Management Act" or "Act" means Article 1.1 (§10.1-603.1 et seq.) of
653 Chapter 6 of Title 10.1 of the Code of Virginia.

654 "Virginia Stormwater Management Program (VSMP)" means the Virginia program for
655 issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and
656 imposing and enforcing requirements pursuant to the federal Clean Water Act, the Virginia
657 Stormwater Management Act, this chapter, and associated guidance documents.

658 "Virginia Stormwater Management Program (VSMP) permit" means a document issued by
659 the permit-issuing authority pursuant to the Virginia Stormwater Management Act and this
660 chapter authorizing, under prescribed conditions, the potential or actual discharge of pollutants
661 from a point source to surface waters. Under the approved state program, a VSMP permit is
662 equivalent to a NPDES permit.

663 "VSMP application" or "application" means the standard form or forms, including any
664 additions, revisions or modifications to the forms, approved by the administrator and the board
665 for applying for a VSMP permit.

666 "Wasteload allocation" or "wasteload" or "WLA" means the portion of a receiving surface
667 water's loading or assimilative capacity allocated to one of its existing or future point sources of
668 pollution. WLAs are a type of water quality-based effluent limitation.

669 "Water quality standards" or "WQS" means [narrative statements that describe water quality
670 requirements in general terms, and numeric limits for specific physical, chemical, biological or

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 31 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

671 ~~radiological characteristics of water. These narrative statements and numeric limits describe~~
672 ~~water quality necessary to meet and maintain reasonable and beneficial uses such as~~
673 ~~swimming and other water-based recreation, public water supply and the propagation and~~
674 ~~growth of aquatic life provisions of state or federal law which consist of a designated use or~~
675 ~~uses for the waters of the Commonwealth and water quality criteria for such waters based on~~
676 ~~such uses. Water quality standards are to protect the public health or welfare, enhance the~~
677 ~~quality of water, and serve the purposes of the State Water Control Law (§62.1-44.2 et seq. of~~
678 ~~the Code of Virginia), the Virginia Stormwater Management Act (§10.1-603.1 et seq. of the~~
679 ~~Code of Virginia), and the federal Clean Water Act (33 USC §1251 et seq.).]~~

680 "Water quality volume" means the volume equal to the first 1/2 inch of runoff multiplied by
681 the impervious surface of the land development project.

682 "Watershed" means a defined land area drained by a river or stream or system of
683 connecting rivers or streams such that all surface water within the area flows through a single
684 outlet.

685 "Wetlands" means those areas that are inundated or saturated by surface or groundwater at
686 a frequency and duration sufficient to support, and that under normal circumstances do support,
687 a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands
688 generally include swamps, marshes, bogs, and similar areas.

689 "Whole effluent toxicity" means the aggregate toxic effect of an effluent measured directly by
690 a toxicity test.

691

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]

692 4VAC50-60-1200. Definitions.

693 The words and terms used in this part shall have the meanings defined in the Act and this
694 chapter unless the context clearly indicates otherwise, except that for the purposes of this part:

695 "Date brought on line" means the date when the operator determines that a new stormwater
696 management facility is properly functioning to meet its designed pollutant load reduction.

697 ~~"Infiltration" means water other than wastewater that enters a sewer system (including sewer~~
698 ~~service connections and foundation drains) from the ground through such means as defective~~
699 ~~pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished~~
700 ~~from, inflow.~~

701 ~~"Inflow" means water other than wastewater that enters a sewer system (including sewer~~
702 ~~service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard~~
703 ~~drains, area drains, drains from springs and swampy areas, manhole covers, cross connections~~
704 ~~between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface~~
705 ~~runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from,~~
706 ~~infiltration.~~

707 "MS4 Program Plan" means the completed registration statement and all approved
708 additions, changes and modifications detailing the comprehensive program implemented by the
709 operator under this permit to reduce the pollutants in the stormwater discharged from its
710 municipal separate storm sewer system (MS4) that has been submitted and accepted by the
711 [~~director~~ department].

712 "Physically interconnected" means that a MS4 directly discharges to a second MS4.

713

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 33 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

714 **4VAC50-60-1210. Purpose; delegation of authority; effective date of the permit.**

715 A. This VSMP general permit regulation governs stormwater discharges from regulated
716 small municipal separate storm sewer systems (regulated small MS4s) to surface waters of the
717 Commonwealth of Virginia.

718 1. Unless the small MS4 qualifies for a waiver under subdivision 3 of this subsection,
719 ~~owners~~ operators are regulated if they operate a small MS4, including but not limited to
720 systems operated by federal, state, tribal, and local governments, including the Virginia
721 Department of Transportation; and:

722 a. The small MS4 is located in an urbanized area as determined by the latest
723 Decennial Census by the Bureau of the Census. If the small MS4 is not located
724 entirely within an urbanized area, only the portion that is within the urbanized area is
725 regulated; or

726 b. The small MS4 is designated by the board, including where the designation is
727 pursuant to 40 CFR Part 123.35 (b)(3) or (b)(4) (2001), or is based upon a petition
728 under 4VAC50-60-380 D.

729 2. ~~An~~ A small MS4 may be the subject of a petition pursuant to 4VAC50-60-380 D to the
730 board to require a VSMP permit for their discharge of stormwater. If the board
731 determines that ~~an~~ a small MS4 needs a permit and the ~~owner~~ operator applies for
732 coverage under this general permit, the ~~owner~~ operator is required to comply with the
733 requirements of [4VAC50-60-1210 Part XV] .

734 3. The board may waive the requirements otherwise applicable to a regulated small MS4
735 if it meets the criteria of subdivision 4 or 5 of this subsection. If a waiver is received
736 under this subsection, the ~~owner~~ operator may subsequently be required to seek

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

coverage under a VSMP permit in accordance with 4VAC50-60-400 C [4] if circumstances change. (See also 40 CFR Part 123.35 (b) (2001))

4. The board may waive permit coverage if the regulated small MS4 serves a population of less than 1,000 within the urbanized area and meets the following criteria:

a. The system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the VSMP stormwater program; and

b. ~~If pollutants~~ Pollutants are discharged that have been identified as a cause of impairment of any water body to which the regulated small MS4 discharges, but stormwater controls are not needed based on wasteload allocations that are part of a State Water Control Board established and EPA approved "total maximum daily load" (TMDL) that addresses the pollutants of concern.

5. The board may waive permit coverage if the regulated small MS4 serves a population under 10,000 and meets the following criteria:

a. The ~~board~~ State Water Control Board has evaluated all surface waters, including small streams, tributaries, lakes, and ponds, that receive a discharge from the regulated small MS4;

b. For all such waters, the board has determined that stormwater controls are not needed based on wasteload allocations that are part of a State Water Control Board established and EPA approved TMDL that addresses the pollutants of concern or, if a TMDL has not been developed and approved, an equivalent analysis that determines sources and allocations for the pollutants of concern;

c. For the purpose of this subdivision, the pollutants of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 35 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

760 total suspended solids, turbidity or siltation), pathogens, oil and grease, and any
761 pollutant that has been identified as a cause of impairment of any water body that will
762 receive a discharge from the regulated small MS4; and

763 d. The board has determined that future discharges from the regulated small MS4 do
764 not have the potential to result in exceedances of water quality standards, including
765 impairment of designated uses, or other significant water quality impacts, including
766 habitat and biological impacts.

767 B. This general permit will become effective on ~~December 9, 2002~~ July [19] , 2008, and
768 will expire five years from the effective date.

769

770 **4VAC50-60-1220. Authorization to discharge.**

771 A. Any ~~owner~~ operator governed by this general permit is hereby authorized to discharge
772 stormwater from the regulated small MS4 to surface waters of the Commonwealth of Virginia
773 provided that the ~~owner~~ operator files and receives acceptance of the registration statement of
774 4VAC50-60-1230 by the [director department], and files the permit ~~fee~~ fees required by Part
775 XIII (4VAC50-60-700 et seq.) of this chapter, and provided that the ~~owner~~ operator shall not
776 have been required to obtain an individual permit according to 4VAC50-60-410 B.

777 B. The ~~owner~~ operator shall not be authorized by this general permit to discharge to state
778 waters specifically named in other State Water Control Board or board regulations or policies
779 that prohibit such discharges.

780 C. Nonstormwater discharges or flows into the regulated small MS4 are authorized by this
781 permit and do not need to be addressed in the ~~Stormwater Management~~ MS4 Program required
782 under 4VAC50-60-1240, Section II B 3, if:

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 36 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1. The nonstormwater discharges or flows are covered by a separate individual or general VPDES or VSMP permit for nonstormwater discharges; or

2. The individual nonstormwater discharges or flows have been identified in writing by the Department of Environmental Quality as de minimis discharges that are not significant sources of pollutants to state waters and do not require a VPDES permit;

3. Nonstormwater discharges or flows in the following categories have not been identified by the ~~permittee~~ operator, State Water Control Board, or by the board as significant contributors of pollutants to the regulated small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and discharges or flows from fire fighting activities; or

4. The discharge of materials resulting from a spill is necessary to prevent loss of life, personal injury, or severe property damage. The operator shall take, or ensure that the responsible party takes, all reasonable steps to minimize or prevent any adverse effect on human health or the environment. This permit does not transfer liability for a spill itself from the party(ies) responsible for the spill to the operator nor relieve the party(ies) responsible for a spill from the reporting requirements of 40 CFR Part 117 and 40 CFR Part 302 (2001).

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 37 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

805 In the event the operator is unable to meet certain conditions of this permit due to
806 circumstances beyond the operator's control, a written explanation of the circumstances that
807 prevented permit compliance shall be submitted to the department in the annual report.
808 Circumstances beyond the control of the operator may include abnormal climatic conditions;
809 weather conditions that make certain requirements unsafe or impracticable; or unavoidable
810 equipment failures caused by weather conditions or other conditions beyond the reasonable
811 control of the operator (operator error is not a condition beyond the control of the operator). The
812 failure to provide adequate program funding, staffing or equipment maintenance shall not be an
813 acceptable explanation for failure to meet permit conditions. The board will determine, at its sole
814 discretion, whether the reported information will result in an enforcement action.

815 D. Discharges that are excluded from obtaining a VSMP permit pursuant to 4VAC50-60-300
816 are exempted from the regulatory requirements of this permit.

817 E. Pursuant to 40 CFR Part 122.34 (c) (2001), for those portions of a regulated small MS4
818 that are covered under a VPDES permit for industrial stormwater discharges, the operator shall
819 follow the conditions established under the VPDES permit. Upon termination of VPDES permit
820 coverage, discharges from previously VPDES authorized outfalls shall meet the conditions of
821 this permit provided it has been determined by the board that an individual MS4 permit is not
822 required.

823 F. Stormwater discharges from specific MS4 outfalls that have been granted conditional
824 exclusion for "no exposure" of industrial activities and materials to stormwater under the VPDES
825 permitting program shall obtain coverage under this VSMP general permit. The Department of
826 Environmental Quality is responsible for determining compliance with the conditional exclusion
827 under the State Water Control Law and attendant regulations.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 38 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]

D. G. Receipt of this VSMP general permit does not relieve any ~~owner~~ operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

4VAC50-60-1230. Permit application (registration statement).

A. Deadline for submitting a registration statement

~~1. Owners of regulated small MS4's designated under 4VAC50-60-1210 A 1 a, that are applying for coverage under this VSMP general permit must submit a complete Registration Statement to the department by March 10, 2003, unless the MS4 serves a jurisdiction with a population under 10,000 and the board has established a schedule for phasing in permit coverage with a final deadline of March 8, 2007.~~

~~2. Owners~~ 1. Operators of regulated small ~~MS4's~~ MS4s designated under 4VAC50-60-1210 A 1 b, that are applying for coverage under this VSMP general permit must submit a complete registration statement to the department within 180 days of notice of designation, unless the board grants a later date.

2. In order to continue uninterrupted coverage under the VSMP general permit, operators of regulated small MS4s shall submit a new registration statement at least 90 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

B. Registration statement.

The registration statement shall include the following information:

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 39 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1. The name and location (county or city name) of the regulated small MS4 for which the registration statement is submitted;
2. The name, type (city, county, incorporated town, unincorporated town, college or university, local school board, military installation, transportation system, federal or state facility, or other), and address, and telephone number of the owner operator of the regulated small MS4;
3. ~~The name(s) of the receiving water(s)~~ Hydrologic Unit Code(s) as identified in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset (available online at http://www.dcr.virginia.gov/soil_&_water/hu.shtml) currently receiving discharges or that have potential to receive discharges from the regulated small MS4;
4. ~~The best management practices (BMPs) that the owner or another entity proposes to implement for each of the stormwater minimum control measures at 4VAC50-60-1240, Section II-B~~ The estimated drainage area, in acres, served by the regulated small MS4 [**directly**] discharging to any impaired receiving surface waters listed in the [**most recent 2006**] Virginia 305(b)/303(d) Water Quality Assessment Integrated Report, and a description of the land use for each such drainage area;
5. ~~The measurable goals for each of the BMPs including, as appropriate, the years in which the required actions will be undertaken, including interim milestones and the frequency of the action; and A listing of any TMDL wasteloads allocated to the regulated~~ small MS4. This information may be found at:
<http://www.deq.state.va.us/tmdl/develop.html>;

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 40 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

6. ~~The person or persons responsible for implementing or coordinating the stormwater management program.~~ The name(s) of any regulated physically interconnected MS4s to which the regulated small MS4 discharges;

7. A copy of the MS4 Program Plan that includes:

a. A list of best management practices (BMPs) that the operator proposes to implement for each of the stormwater minimum control measures and their associated measurable goals pursuant to 4VAC50-60-1240, Section II B, that includes:

(1) A list of the existing policies, ordinances, schedules, inspection forms, written procedures, and other documents necessary for best management practice implementation; and

(2) The [~~individual, department, division, or unit~~ individuals, departments, divisions, or units] responsible for implementing the best management practices;

b. The objective and expected results of each best management practice in meeting the measurable goals of the stormwater minimum control measures;

c. The implementation schedule including any interim milestones for the implementation of a proposed new best management practice; and

d. The method that will be utilized to determine the effectiveness of each best management practice and the MS4 Program as a whole;

8. A list of all existing signed agreements between the operator and any applicable third parties where the operator has entered into an agreement in order to implement minimum control measures or portions of minimum control measures;

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 41 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

9. The name, address, telephone number and email address of either the principal executive officer or ranking elected official as defined in 4VAC50-60-370;

10. The name, position title, address, telephone number and email address of any duly authorized representative as defined in 4VAC50-60-370; and

~~7.~~ 11. The following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

C. The registration statement shall be signed by the principal executive officer or ranking elected official in accordance with 4VAC50-60-370.

D. An ~~owner operator~~ may file ~~his~~ its own registration statement, or the ~~owner operator~~ and other ~~municipalities or governmental entities~~ operators of regulated small MS4s may jointly submit a registration statement. If responsibilities for meeting the stormwater minimum control measures will be shared with other municipalities or governmental entities, the registration statement must describe which stormwater minimum control measures the ~~owner operator~~ will implement and identify the entities that will implement the other stormwater minimum control measures within the area served by the regulated small MS4.

E. Where to submit. The registration statement shall be submitted to ~~DCR's Urban Program's Section of the Division of Soil and Water Conservation.~~ ;

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 42 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

Department of Conservation and Recreation

Division of Soil and Water Conservation

Stormwater Permitting

203 Governor Street, Suite 206

Richmond, VA 23219

916

917 **4VAC50-60-1240. General permit.**

918 Any ~~owner~~ operator whose registration statement is accepted by the [director department]

919 will receive coverage under the following permit and shall comply with the requirements therein

920 and be subject to all applicable requirements of the Virginia Stormwater Management Act

921 (~~Chapter 6~~, (Article 1.1 (§10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia)

922 and the Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60).

923 General Permit No.: ~~DCR02~~ VAR04

924 Effective Date: ~~December 9, 2002~~ July [4 9] , 2008

925 Expiration Date: ~~December 9, 2007~~ [June 30 July 8], 2013

926 GENERAL PERMIT FOR ~~STORMWATER~~ DISCHARGES OF STORMWATER FROM SMALL

927 MUNICIPAL SEPARATE STORM SEWER SYSTEMS

928 AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER MANAGEMENT

929 PROGRAM AND THE VIRGINIA STORMWATER MANAGEMENT ACT

930 In compliance with the provisions of the Clean Water Act, as amended and pursuant to the

931 Virginia Stormwater Management Act and regulations adopted pursuant thereto, this permit

932 authorizes operators of small municipal separate storm sewer systems to discharge to surface

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 43 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

933 waters within the boundaries of the Commonwealth of Virginia, except those waters specifically
934 named in State Water Control Board and Virginia Soil and Water Conservation Board
935 regulations or policies which prohibit such discharges.

936 The authorized discharge shall be in accordance with this cover page, Section I—Discharge
937 Authorization and Special Conditions, ~~Section II—Stormwater Management~~ Section II—MS4
938 Program and Section III—Conditions Applicable To All VSMP Permits, as set forth herein. [The
939 operator shall utilize all legal authority provided by the laws and regulations of the
940 Commonwealth of Virginia to control discharges to and from the MS4. This legal authority may
941 be a combination of statute, ordinance, permit, contract, order or inter-jurisdictional
942 agreements.]

943 SECTION I

944 DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

945 A. Coverage under this permit. During the period beginning with the date of coverage under
946 this general permit and lasting until the [~~permit's expiration date~~ expiration and reissuance of
947 this permit], the ~~permittee~~ operator is authorized to discharge [~~stormwater~~ in accordance with
948 this permit] from the small municipal separate storm sewer system identified in the registration
949 statement [into surface waters] .

950 B. Special Conditions. A total maximum daily load (TMDL) approved by the State Water
951 Control Board may include a wasteload allocation to the regulated small MS4 that identifies the
952 pollutant for which stormwater controls are necessary for the surface waters to meet water
953 quality standards. The pollutant identified in a wasteload allocation as of the effective date of
954 this permit must be addressed through the measurable goals of the MS4 Program Plan. A

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]

955 wasteload allocation does not establish that the operator of a regulated small MS4 is [in or] out
956 of compliance with the conditions of this permit.

957 ~~1. Total Maximum Daily Load (TMDL) allocations. If a TMDL is approved for any~~
958 ~~waterbody into which the small MS4 discharges, the board will review the TMDL to~~
959 ~~determine whether the TMDL includes requirements for control of stormwater~~
960 ~~discharges. If discharges from the MS4 are not meeting the TMDL allocations, the board~~
961 ~~will notify the permittee of that finding and may require that the Stormwater Management~~
962 ~~Program required in Section II be modified to implement the TMDL within a timeframe~~
963 ~~consistent with the TMDL. Any such new requirement will constitute a case decision by~~
964 ~~the board.~~

965 ~~2. Releases of hazardous substances or oil in excess of reportable quantities. The~~
966 ~~discharge of hazardous substances or oil in the stormwater discharge(s) from the small~~
967 ~~MS4 shall be prevented or minimized to the maximum extent practicable in accordance~~
968 ~~with the applicable Stormwater Management Program required in Section II. Where a~~
969 ~~release containing a hazardous substance or oil in an amount equal to or in excess of a~~
970 ~~reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR Part 117~~
971 ~~(2002) or 40 CFR Part 302 (2002) occurs during a 24-hour period, the permittee is~~
972 ~~required to notify the Department of Environmental Quality and the Department of~~
973 ~~Conservation and Recreation in accordance with the requirements of Section III G as~~
974 ~~soon as he has knowledge of the discharge. In addition, the Stormwater Management~~
975 ~~Program required under Section II of this permit must be reviewed to identify measures~~
976 ~~to prevent the reoccurrence of such releases and to respond to such releases, and the~~
977 ~~program must be modified where appropriate. This permit does not relieve the permittee~~

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 45 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]

of the reporting requirements of 40 CFR Part 110 (2001), 40 CFR Part 117 (2001) and 40 CFR Part 302 (2001) or §62.1-44.34:19 of the Code of Virginia.

1. The operator shall update its MS4 Program Plan to include measurable goals, schedules, and strategies to ensure MS4 Program consistency with the [assumptions of the] TMDL [WLA] within 18 months of permit coverage; or, within 18 months of the effective date of any reopening of this permit to include wasteloads allocated to the regulated small MS4 after issuance of permit coverage.

2. The measurable goals, schedules, strategies, and other best management practices (BMPs), required in an updated MS4 Program Plan to assure MS4 Program consistency with an approved TMDL for the pollutant identified in a WLA are, at a minimum:

a. [] The operator shall develop a list of its current ordinances and legal authorities, [BMPs,] policies, plans, procedures and contracts implemented as part of the MS4 Program that are applicable to reducing the pollutant identified in a WLA.

b. The operator shall evaluate existing ordinances and legal authorities, [BMPs,] policies, plans, procedures and contracts of the existing MS4 Program to determine the effectiveness of the MS4 Program [to address reduction in addressing reductions] of the pollutant identified in the WLA. The evaluation shall identify any weakness or limitation in the MS4 Program to reduce the pollutant identified in the WLA in a manner consistent with the TMDL.

c. The operator shall develop a schedule to implement procedures and strategies [to that] address the MS4 Program weaknesses [including a timetable such as timetables] to update [the] existing ordinances and legal authorities [within two years] . [BMPs,] policies, plans, procedures and contracts to ensure consistency

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]

1001 with the [assumptions of the] TMDL [WLA]. When possible, source elimination
1002 shall be prioritized over load reduction.

1003 [3. d.] The operator shall implement the schedule established in Section I B 2 c.

1004 [4. 3.] The operator shall integrate an awareness campaign into its existing public
1005 education and outreach program that promotes methods to eliminate and reduce
1006 discharges of the pollutant identified in the WLA. This may include additional employee
1007 training regarding the sources and methods to eliminate and minimize the discharge of
1008 the pollutant identified in the WLA.

1009 [5. 4.] The operator is encouraged to participate as a stakeholder in the development of
1010 any implementation plans developed to address the TMDL and shall incorporate
1011 applicable best management practices identified in the TMDL implementation plan in
1012 their MS4 Program Plan. [The operator may choose to implement BMPs of equivalent
1013 design and efficiency instead of those identified in the TMDL implementation plan,
1014 provided that the rationale for any substituted BMP is provided and the substituted BMP
1015 is consistent with the TMDL and the WLA.]

1016 [6. 5.] The operator shall develop and implement outfall reconnaissance procedures to
1017 identify [and eliminate the discharge potential sources] of the pollutant identified in the
1018 WLA from anthropogenic activities. The operator shall [annually] conduct
1019 reconnaissance [on a minimum of 15% of its known MS4 outfalls discharging to the
1020 surface water for which the WLA has been assigned. Reconnaissance shall be
1021 performed on all outfalls at least once during this permit period in accordance with the
1022 following:

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

1023 a. Should the operator have 250 or more total outfalls discharging to the surface
 1024 water identified in the WLA, the operator shall perform reconnaissance on a
 1025 minimum of 250 outfalls for each WLA assigned at least once during the 5-year
 1026 permit period and shall perform reconnaissance on a minimum of 35 outfalls per
 1027 year.

1028 b. Should the operator have less than 250 total outfalls discharging to an identified
 1029 surface water, the operator shall perform reconnaissance on all outfalls during the 5-
 1030 year permit period and shall annually conduct reconnaissance on a minimum of 15%
 1031 of its known MS4 outfalls discharging to the surface water for which the WLA has
 1032 been assigned.]

1033 The department recommends that the operator review the publication entitled "Illicit
 1034 Discharge Detection and Elimination: A Guidance Manual for Program Development and
 1035 Technical Assessments," EPA cooperative agreement number X-82907801-0, for
 1036 guidance in implementing its outfall reconnaissance procedures. [The operator shall
 1037 implement procedures designed to reduce the discharge of the pollutant in a manner
 1038 consistent with the TMDL. Physically interconnected MS4s may coordinate outfall
 1039 reconnaissance to meet the requirements of this subdivision.]

1040 [~~7. 6.~~] The operator shall evaluate all properties owned or operated by the MS4
 1041 operator [that are not covered under a separate VPDES permit] for potential sources of
 1042 the pollutant identified in the WLA. Within three years of [the required date for] updating
 1043 the MS4 Program Plan, the operator shall conduct a site [evaluation review] and
 1044 characterize the runoff for those properties where it determines that the pollutant
 1045 identified in the WLA is currently stored, or has been transferred, transported or

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]

1046 historically disposed of in a manner that would expose it to precipitation in accordance
1047 with the following schedule:

1048 a. [~~The~~ As a part of the site review, the] operator shall collect a total of two samples
1049 from a representative outfall for each identified municipal property [. One sample
1050 shall be taken] during each of the following six-month periods: October through
1051 March, and April through September.

1052 b. All collected samples shall be grab samples and collected within the first 30
1053 minutes of a runoff producing event that is greater than 0.1 inches in magnitude and
1054 that occurs at least 72 hours from the previous measurable (greater than 0.1 inch
1055 rainfall) storm event. The required 72-hour storm event interval is waived where the
1056 preceding measurable storm event did not result in a measurable discharge from the
1057 property. The required 72-hour storm event interval may also be waived where the
1058 operator documents that less than a 72-hour interval is representative for local storm
1059 events during the season when sampling is being conducted. Analytical methods
1060 shall be conducted according to procedures approved under 40 CFR Part 136 or
1061 alternative methods approved by the Environmental Protection Agency (EPA).
1062 Where an approved 40 CFR Part 136 method does not exist, the operator must use
1063 a method consistent with the TMDL.

1064 c. For properties where there is found to be a discharge of the pollutant identified in
1065 the WLA, the operator shall develop and implement a schedule to minimize the
1066 discharge of the pollutant identified in the WLA in a manner consistent with the
1067 approved TMDL [.]

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]

1068 [~~8. 7.~~] The operator shall conduct an annual characterization that estimates the volume
1069 of stormwater discharged, in [gallons cubic feet], and the quantity of pollutant identified
1070 in the WLA, in a unit consistent with the WLA, discharged by the regulated small MS4.

1071 [~~9. 8.~~] As part of the annual evaluation, the operator shall update the MS4 Program
1072 Plan to include any new information regarding the TMDL in order to ensure consistency
1073 with the TMDL.

1074 [~~10. 9.~~] Along with reporting requirements in Section II E, the operator shall include the
1075 following with each annual report:

1076 a. Copies of any updates to the MS4 Program Plan completed during the reporting
1077 cycle and any new information regarding the TMDL in order to evaluate its ability to
1078 assure the consistency of its discharge with the [assumptions of the TMDL] WLA.

1079 b. The estimate of the volume of stormwater discharged, in [gallons cubic feet], and
1080 the quantity of pollutant identified in the WLA, in a unit consistent with the WLA,
1081 discharged by the regulated small MS4 for each WLA.

1082 SECTION II

1083 STORMWATER MUNICIPAL SEPARATE STORM SEWER SYSTEM MANAGEMENT

1084 PROGRAM

1085 A. The ~~permittee~~ operator of a regulated small MS4 must develop, implement, and enforce a
1086 ~~stormwater management program~~ MS4 Program designed to reduce the discharge of pollutants
1087 from the regulated small MS4 to the maximum extent practicable (MEP), to protect water
1088 quality, [~~to improve waters that the regulated small MS4 discharges into that are identified as~~
1089 ~~impaired in the 2006 305(b)/303(d) Water Quality Assessment Integrated Report~~
1090 ~~(http://www.deq.state.va.us/wqa/ir2006.html)~~ to ensure compliance by the operator with water

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 50 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1091 quality standards], and to satisfy the appropriate water quality requirements of the Clean Water
1092 Act and regulations [and the Virginia Stormwater Management Act and attendant regulations].
1093 The ~~stormwater management program~~ MS4 Program must include the minimum control
1094 measures described in paragraph B of this section. [~~For purposes of this section, narrative~~
1095 ~~effluent limitations requiring implementation of best management practices (BMPs) are~~
1096 ~~generally the most appropriate form of effluent limitations when designed to satisfy technology~~
1097 ~~requirements (including reductions of pollutants to the maximum extent practicable) and to~~
1098 ~~protect water quality.~~] Implementation of best management practices consistent with the
1099 provisions of [~~the an~~] ~~stormwater management program~~ [iterative] MS4 Program required
1100 pursuant to this ~~Part~~ section constitutes compliance with the standard of reducing pollutants to
1101 the "maximum extent practicable." ~~The stormwater management program must be developed~~
1102 ~~and implemented in accordance with the Act by July 1, 2006, or by a later date if specified by~~
1103 ~~the board.~~ [and,] protects water quality in the absence of a TMDL wasteload allocation [
1104 ensures compliance by the operator with water quality standards, and satisfies the appropriate
1105 water quality requirements of the Clean Water Act and regulations in the absence of a TMDL
1106 WLA]. The requirements of this section and those special conditions set out in Section I B also
1107 apply where a WLA is applicable.

1108 Within 180 days of the effective date of this general permit, the operator shall review its
1109 existing MS4 Program Plan and submit a schedule to develop and implement programs to meet
1110 the conditions established by this permit. For operators of regulated small MS4s that are
1111 applying for initial coverage under this general permit, the schedule to develop and implement
1112 the MS4 Program Plan shall be submitted with the completed registration statement.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 51 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1113 [~~Prior to submittal of the MS4 Program Plan and proposed schedule to the department,~~
1114 ~~each operator must provide public notification and provide for receipt of public comments. Public~~
1115 ~~notice shall allow at least 30 days for public comment. Public notice shall be given by any~~
1116 ~~method reasonably calculated to give actual notice of the action in question to the persons~~
1117 ~~potentially affected by it, including press releases or any other forum or medium to elicit public~~
1118 ~~participation. Copies of all comments received shall be submitted with the proposed schedule to~~
1119 ~~the department.]~~

1120 B. Minimum control measures.

1121 1. Public education and outreach on stormwater impacts. Implement a public education
1122 program to distribute educational materials to the community or conduct equivalent
1123 outreach activities about the impacts of stormwater discharges on water bodies and the
1124 steps that the public can take to reduce pollutants in stormwater runoff. The
1125 [Department recommends that the] operator [may] review the Environmental
1126 Protection Agency (EPA) publication entitled "Getting in Step: A Guide for Conducting
1127 Watershed Outreach Campaigns," publication number EPA 841-B-03-002, for guidance
1128 in developing a public education program.

1129 The operator shall identify, schedule, implement, evaluate and modify, as necessary,
1130 BMPs to meet the following public education and outreach measurable goals:

1131 a. Increased individual and household knowledge about the steps that they can take
1132 to reduce stormwater pollution, placing priority on reducing impacts to impaired
1133 waters and other local water pollution concerns;

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 52 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

- 1134 b. Increased public employee, business, and general public knowledge of hazards
1135 associated with illegal discharges and improper disposal of waste, including pertinent
1136 legal implications;
- 1137 c. Increased individual and group involvement in local water quality improvement
1138 initiatives including the promotion of local restoration and clean up projects,
1139 programs, groups, meetings and other opportunities for public involvement;
- 1140 d. [~~Increased range of diverse~~ Diverse] strategies to target audiences specific to the
1141 area serviced by the regulated small MS4;
- 1142 e. Improved outreach program to address viewpoints and concerns of target
1143 audiences, [~~particularly minority and disadvantaged audiences as well as special~~
1144 ~~concerns relating to children with a recommended focus on minorities,~~
1145 ~~disadvantaged audiences and minors~~] ; and
- 1146 f. Targeted strategies towards local groups of commercial, industrial, and institutional
1147 entities likely to have significant stormwater impacts.
- 1148 2. Public involvement/participation. [~~At a minimum, comply with applicable state, tribal,~~
1149 ~~and local public notice requirements when implementing the~~] stormwater management
1150 program [~~MS4 Program.~~]
- 1151 The operator shall [~~comply with applicable state, tribal, and local public notice~~
1152 ~~requirements and~~] identify, schedule, implement, evaluate and modify, as necessary,
1153 BMPs to meet the following public involvement/participation measurable goals:
- 1154 a. Promote the availability of the operator's MS4 Program Plan [~~and any~~
1155 ~~modifications~~] for public review and comment. [~~Public notice shall be given by any~~
1156 ~~method reasonably calculated to give actual notice of the action in question to the~~

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

1157 persons potentially affected by it, including press releases or any other forum or
 1158 medium to elicit public participation.] Provide access to or copies of the MS4
 1159 Program Plan [or any modifications] upon request of interested parties in
 1160 compliance with all applicable freedom of information regulations;
 1161 b. Provide access to or copies of the annual report upon request of interested parties
 1162 in compliance with all applicable freedom of information regulations; and
 1163 c. Participate, through promotion, sponsorship, or other involvement, in local
 1164 activities aimed at increasing public participation to reduce stormwater pollutant
 1165 loads and improve water quality.

1166 3. Illicit discharge detection and elimination. The MS4 Program shall:

1167 a. Develop, implement and enforce a program to detect and eliminate illicit

1168 discharges, as defined at ~~4VAC50-60-1200~~ 4VAC50-60-10, into the regulated small

1169 MS4. The department recommends that the operator review the publication entitled
 1170 "Illicit Discharge Detection and Elimination: A Guidance Manual for Program
 1171 Development and Technical Assessments," Environmental Protection Agency (EPA)
 1172 cooperative agreement number X-82907801-0, for guidance in implementing and
 1173 evaluating its illicit discharge detection and elimination program;

1174 b. ~~(1)~~ Develop, if not already completed, and maintain, an updated a storm sewer

1175 system map, showing the location of all ~~major~~ known outfalls of the regulated small

1176 MS4 including those physically interconnected to a regulated MS4, the associated
 1177 [surface waters and] HUCs, and the names and ~~location~~ locations of all impaired
 1178 surface waters that receive discharges from those outfalls. The operator shall also

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

1179 estimate the acreage within the regulated small MS4 discharging to each HUC and
 1180 impaired water;

1181 ~~(2)~~ c. To the extent allowable under state, tribal or local law or other regulatory
 1182 mechanism, effectively prohibit, through ordinance, or other regulatory mechanism,
 1183 nonstormwater discharges into the storm sewer system and implement appropriate
 1184 enforcement procedures and actions;

1185 The following categories of nonstormwater discharges or flows (i.e., illicit discharges)
 1186 must be addressed only if they are identified by the operator, the State Water Control
 1187 Board, or by the board as significant contributors of pollutants to the regulated small
 1188 MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground
 1189 waters, uncontaminated ground water infiltration, uncontaminated pumped ground
 1190 water, discharges from potable water sources, foundation drains, air conditioning
 1191 condensation, irrigation water, springs, water from crawl space pumps, footing
 1192 drains, lawn watering, individual residential car washing, flows from riparian habitats
 1193 and wetlands, dechlorinated swimming pool discharges, street wash water,
 1194 discharges or flows from fire fighting activities, and flows that have been identified in
 1195 writing by the Department of Environmental Quality as de minimis discharges that
 1196 are not significant sources of pollutants to state waters and not requiring a VPDES
 1197 permit;

1198 ~~(3)~~ d. Develop and implement ~~a plan~~ procedures to detect and address
 1199 nonstormwater discharges, including illegal dumping, to the ~~system~~ regulated small
 1200 MS4; and

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 55 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]

1201 ~~(4) Inform public employees, businesses, and the general public of hazards~~
1202 ~~associated with illegal discharges and improper disposal of waste.~~

1203 ~~c. The following categories of nonstormwater discharges or flows (i.e., illicit~~
1204 ~~discharges) must be addressed only if they are identified by the permittee or by the~~
1205 ~~board as significant contributors of pollutants to the small MS4: water line flushing,~~
1206 ~~landscape irrigation, diverted stream flows, rising ground waters, uncontaminated~~
1207 ~~ground water infiltration, uncontaminated pumped ground water, discharges from~~
1208 ~~potable water sources, foundation drains, air conditioning condensation, irrigation~~
1209 ~~water, springs, water from crawl space pumps, footing drains, lawn watering,~~
1210 ~~individual residential car washing, flows from riparian habitats and wetlands,~~
1211 ~~dechlorinated swimming pool discharges, street wash water, and discharges or flows~~
1212 ~~from fire fighting activities.~~

1213 e. Prevent or minimize to the maximum extent practicable, the discharge of
1214 hazardous substances or oil in the stormwater discharge(s) from the regulated small
1215 MS4. In addition, the MS4 Program must be reviewed to identify measures to
1216 prevent the recurrence of such releases and to respond to such releases, and the
1217 program must be modified where appropriate. This permit does not relieve the
1218 operator or the responsible part(ies) of any reporting requirements of 40 CFR Part
1219 110 (2001), 40 CFR Part 117 (2001) and 40 CFR Part 302 (2001) or §62.1-44.34:19
1220 of the Code of Virginia;

1221 f. Track the number of illicit discharges identified, provide narrative on how they were
1222 [controlled or] eliminated, and submit the information in accordance with Section II
1223 E [23] ; and

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 56 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1224 g. Notify, in writing, any downstream regulated MS4 to which the small regulated
1225 MS4 is physically interconnected of the small regulated MS4's connection to that
1226 system.

1227 4. Construction site stormwater runoff control.

1228 a. ~~Develop~~ The operator shall develop, implement, and enforce ~~a program~~
1229 procedures to reduce pollutants in any stormwater runoff to the regulated small MS4
1230 from construction activities that result in a land disturbance of greater than or equal
1231 to one acre or equal to or greater than 2,500 square feet in all areas of the
1232 jurisdictions designated as subject to the Chesapeake Bay Preservation Area
1233 Designation and Management Regulations adopted pursuant to the Chesapeake
1234 Bay Preservation Act. Additionally, reduction of stormwater discharges from
1235 construction activity disturbing less than one acre must be included in the program if
1236 that construction activity is part of a larger common plan of development or sale that
1237 would disturb one acre or more. ~~If the board waives requirements for stormwater~~
1238 ~~discharges associated with small construction activity in accordance with the~~
1239 ~~definition in 4VAC50-60-10, the permittee is not required to develop, implement,~~
1240 ~~and/or enforce a program to reduce pollutant discharges from such sites.~~

1241 ~~b.~~ The program procedures must include the development and implementation of, at
1242 a minimum:

1243 (1) An ordinance or other ~~regulatory~~ mechanism to require erosion and sediment
1244 controls, as well as sanctions to ensure compliance with the Erosion and Sediment
1245 Control Law and attendant regulations, to the extent allowable under state, tribal, or
1246 local law. Such ordinances and other mechanisms shall be updated as necessary;

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]

1247 (2) Requirements for construction site [owners and] operators to implement
1248 [appropriate erosion and sediment control best management practices as part of]
1249 an erosion and sediment control [plant plan] that is consistent with the Erosion and
1250 Sediment Control Law and attendant regulations and other applicable requirements
1251 of state, tribal, or local law [. Where determined appropriate by the operator, the
1252 operator shall encourage the use of structural and non-structural design techniques
1253 to create a design that has the goal of maintaining or replicating predevelopment
1254 runoff characteristics and site hydrology] ;

1255 (3) Requirements for construction site [owners and] operators to ~~control waste such~~
1256 ~~as discarded building materials, concrete truck washout, chemicals, litter, and~~
1257 ~~sanitary waste at the construction site that may cause adverse impacts to water~~
1258 ~~quality; or procedures to ensure that construction site operators have secured or will~~
1259 ~~secure~~ authorization to discharge stormwater from construction activities under a
1260 ~~VSMP construction permit~~ for construction activities that result in a land disturbance
1261 of greater than or equal to one acre or equal to or greater than 2,500 square feet in
1262 all areas of the jurisdictions designated as subject to the Chesapeake Bay
1263 Preservation Area Designation and Management Regulations adopted pursuant to
1264 the Chesapeake Bay Preservation Act. Additionally, [reduction of] stormwater

1265 discharges from construction activity disturbing less than one acre must [be included
1266 in the procedures secure authorization to discharge under a VSMP permit] if that
1267 construction activity is part of a larger common plan of development or sale that
1268 would disturb one acre or more;

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 58 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1269 ~~(4) Procedures for site plan review which incorporate consideration of potential water~~
1270 ~~quality and quantity impacts and ensures compliance with the Chesapeake Bay~~
1271 ~~Preservation Act as implemented in Tidewater Virginia localities;~~
1272 ~~(5)~~ (4) Procedures for receipt and consideration of information submitted by the
1273 public; and
1274 ~~(6)~~ (5) Procedures for site inspection and enforcement of control measures.
1275 b. The operator shall ensure that plan reviewers, inspectors, program administrators
1276 and construction site [owners and] operators obtain the appropriate certifications as
1277 required under the Erosion and Sediment Control Law;
1278 ~~c. Track~~ The operator shall track regulated land-disturbing activities and submit the
1279 following information ~~for the reporting period with the annual report required in~~
1280 accordance with Section II E [23]:
1281 (1) Total number of regulated land-disturbing activities; and
1282 (2) Total disturbed acreage.
1283 5. Post-construction stormwater management in new development and redevelopment.
1284 a. ~~Develop~~ The operator shall develop, implement, and enforce ~~a program~~
1285 procedures to address stormwater runoff to the regulated small MS4 from new
1286 development and redevelopment projects that disturb greater than or equal to one
1287 acre or equal to or greater than 2,500 square feet in all areas of the jurisdictions
1288 designated as subject to the Chesapeake Bay Preservation Area Designation and
1289 Management Regulations adopted pursuant to the Chesapeake Bay Preservation
1290 Act, including projects less than one acre that are part of a larger common plan of

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 59 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

1291 development or sale, that discharge into the regulated small MS4. The ~~program~~
1292 procedures must ensure that controls are in place that would prevent or minimize
1293 water quality and quantity impacts in accordance with this section.

1294 b. The operator shall:

1295 (1) Develop and implement strategies which include a combination of structural
1296 and/or nonstructural best management practices (BMPs) appropriate for ~~your~~ the
1297 [local operator's] community. ~~[The operator shall encourage the use of low-impact~~
1298 ~~development where determined appropriate by the operator. Where determined~~
1299 ~~appropriate by the operator, the operator shall encourage the use of structural and~~
1300 ~~non-structural design techniques to create a design that has the goal of maintaining~~
1301 ~~or replicating predevelopment runoff characteristics and site hydrology] ;~~

1302 (2) Use an ordinance [, regulation,] or other ~~regulatory~~ mechanism to address post-
1303 construction runoff from new development and redevelopment projects to ensure
1304 compliance with the Virginia Stormwater Management Act (§10.1-603.1 et seq. of the
1305 Code of Virginia) and attendant regulations, and to the extent allowable under state,
1306 tribal or local law. Such ordinances and other mechanisms shall be updated as
1307 necessary; and

1308 (3) Require construction site [owners and] operators to secure authorization to
1309 discharge stormwater from construction activities under a VSMP permit for new
1310 development and redevelopment projects that result in a land disturbance of greater
1311 than or equal to one acre or equal to or greater than 2,500 square feet in all areas of
1312 the jurisdictions designated as subject to the Chesapeake Bay Preservation Area
1313 Designation and Management Regulations adopted pursuant to the Chesapeake

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 60 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]

1314 Bay Preservation Act. Additionally, [~~reduction of~~] stormwater discharges from
1315 construction activity disturbing less than one acre must [~~be included in the~~
1316 ~~procedures~~ secure authorization to discharge under a VSMP permit] if that
1317 construction activity is part of a larger common plan of development or sale that
1318 would disturb one acre or more;

1319 ~~(3)~~ (4) [~~Ensure~~ Require] adequate long-term operation and maintenance by the
1320 owner of ~~BMPs~~ structural stormwater management facilities through requiring the
1321 owner to develop a recorded inspection schedule and maintenance agreement ~~or~~
1322 ~~some other mechanism that achieves an equivalent objective [to the extent~~
1323 allowable under state, tribal or local law or other legal mechanism] . The operator
1324 shall additionally develop, through the maintenance agreement or other method, a
1325 mechanism for enforcement of maintenance responsibilities by the operator if they
1326 are neglected by the owner;

1327 (5) Conduct site inspection and enforcement measures consistent with the Virginia
1328 Stormwater Management Act and attendant regulations; [and]

1329 [~~(6) Track number of acres per HUC developed utilizing low-impact development~~
1330 ~~principles; and~~]

1331 ~~(4)~~ [~~(7)~~(6)] If the MS4 discharges to the Chesapeake Bay watershed, track Track all
1332 known permanent ~~BMP's~~ installed in the MS4 (structural and nonstructural),
1333 stormwater management facilities that discharge to the regulated small MS4 and
1334 submit the following information with the annual report required in accordance with
1335 Section II E [23]:

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 61 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]

- 1336 (a) Type of ~~BMP~~ structural stormwater management facility installed as defined in the
1337 Virginia Stormwater Management Handbook;
- 1338 (b) Geographic location (~~Hydrologic Unit Code~~) (HUC);
- 1339 (c) ~~Waterbody~~ Where applicable, the impaired surface water that the BMP
1340 stormwater management facility is discharging into; and
- 1341 (d) Number of acres treated ~~to the nearest one-tenth acre~~;
- 1342 ~~(e) Whether the BMP is inspected or maintained; and~~
- 1343 ~~(f) How often the BMP is maintained (quarterly, annually, etc.).~~
- 1344 6. Pollution prevention/good housekeeping for municipal operations. Develop and
1345 implement an operation and maintenance program [consistent with the MS4 Program
1346 Plan] that includes a training component and has the ultimate goal of preventing or
1347 reducing pollutant runoff from municipal operations. Using training materials ~~that are~~
1348 including those available from EPA, state, tribe, or other organizations, the program
1349 ~~must~~ shall include employee training to prevent and reduce stormwater pollution from
1350 activities such as park and open space maintenance, fleet and building maintenance,
1351 new construction and land disturbances, and ~~stormwater system~~ MS4 maintenance. The
1352 operator is encouraged to review the Environmental Protection Agency's (EPA's)
1353 National Menu of Stormwater Best Management Practices for ideas and strategies to
1354 incorporate into its program. The menu can be accessed at
1355 <http://cfpub.epa.gov/npdes/stormwater/menuofbmeps/index.cfm>.
- 1356 a. The operator shall identify, implement, evaluate and modify, as necessary, BMPs
1357 to meet the following pollution prevention/good housekeeping for municipal
1358 operations measurable goals:

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

1359 (1) Operation and maintenance programs including activities, schedules, and
 1360 inspection procedures shall include provisions and controls to reduce pollutant
 1361 discharges into the regulated small MS4 [and receiving surface waters] :

1362 (2) Illicit discharges shall be eliminated from storage yards, fleet or maintenance
 1363 shops, outdoor storage areas, rest areas, waste transfer stations, and other
 1364 municipal facilities;

1365 (3) Waste materials shall be disposed of properly;

1366 (4) Materials that are soluble or erodible shall be protected from exposure to
 1367 precipitation;

1368 (5) Materials, including but not limited to fertilizers and pesticides, that have the
 1369 potential to pollute receiving surface waters shall be applied according to
 1370 manufacturer's recommendations; and

1371 (6) For state agencies with lands where nutrients are applied, nutrient management
 1372 plans shall be developed and implemented in accordance with the requirements of
 1373 §10.1-104.4 of the Code of Virginia.

1374 C. ~~Qualifying state, tribal or local program.~~ If an existing ~~qualifying local~~ program requires
 1375 the implementation of one or more of the minimum control measures of Section II B, the
 1376 ~~permittee~~ operator, with the approval of the board, may follow that ~~qualifying~~ program's
 1377 requirements rather than the requirements of Section II B. A ~~qualifying local~~ program is that may
 1378 be considered includes, but is not limited to, a local, state or tribal ~~municipal stormwater~~
 1379 ~~management~~ program that imposes, at a minimum, the relevant requirements of Section II B.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 63 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1380 The ~~permittee's stormwater management program must~~ operator's MS4 Program Plan shall
1381 identify and fully describe any ~~qualifying local~~ program that will be used to satisfy one or more of
1382 the minimum control measures of Section II B.

1383 If the ~~qualifying local~~ program the ~~permittee~~ operator is using requires the approval of a third
1384 party, the program must be fully approved by the third party, or the ~~permittee~~ operator must be
1385 working towards getting full approval. Documentation of the ~~qualifying local~~ program's approval
1386 status, or the progress towards achieving full approval, must be included in the annual report
1387 required by Section II E [23].

1388 D. ~~Sharing responsibility.~~ The ~~permittee~~ operator may rely on another entity to satisfy the
1389 VSMP permit obligations to implement a minimum control measure if: (i) the other entity, in fact,
1390 implements the control measure; (ii) the particular control measure, or component thereof, is at
1391 least as stringent as the corresponding VSMP permit requirement; and (iii) the other entity
1392 agrees to implement the control measure on behalf of the ~~permittee~~ operator. The agreement
1393 between the parties must be documented in writing and retained by the ~~permittee~~ operator with
1394 the ~~Stormwater Management~~ MS4 Program Plan for the duration of this permit.

1395 In the annual reports that must be submitted under Section II E [23], the ~~permittee~~ operator
1396 must specify that another entity is being relied on to satisfy some of the permit obligations.

1397 If the ~~permittee~~ operator is relying on another governmental entity regulated under 4VAC50-
1398 60-380 to satisfy all of the permit obligations, including the obligation to file periodic reports
1399 required by Section II E [23], the ~~permittee~~ operator must note that fact in the registration
1400 statement, but is not required to file the periodic reports.

1401 The ~~permittee~~ operator remains responsible for compliance with the permit obligations if the
1402 other entity fails to implement the control measure (or component thereof).

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 64 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]

1403 E. Evaluation and assessment.

1404 1. Evaluation.

1405 a. The ~~permittee~~ operator must annually evaluate:

1406 ~~program~~ (1) Program compliance,

1407 ~~the~~ (2) The appropriateness of the identified best management practices BMPs [(as

1408 part of this evaluation, the operator shall evaluate the effectiveness of BMPs in

1409 addressing discharges into waters that are identified as impaired in the 2006

1410 305(b)/303(d) Water Quality Assessment Integrated Report)] , and

1411 ~~progress~~ (3) Progress towards achieving the identified measurable goals.

1412 b. The operator must evaluate its MS4 Program once during the permit cycle using

1413 the "Municipal Stormwater Program Evaluation Guidance," Environmental Protection

1414 Agency EPA-833-R-07-003. Such information shall be utilized when reapplying for

1415 permit coverage. Results of this evaluation shall be kept on file and made available

1416 during audits and inspections.

1417 [2. Recordkeeping. The operator must keep records required by the NPDES permit for

1418 at least 3 years. These records must be submitted to the NPDES permitting authority

1419 only upon specific request. The operator must make the records, including a description

1420 of the stormwater management program, available to the public at reasonable times

1421 during regular business hours.]

1422 [~~2.~~ 3.] Annual reports. The ~~permittee~~ operator must submit an annual report for the

1423 reporting period of July 1 through June 30 to the [~~director~~ department] by the annual

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 65 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1424 ~~anniversaries of the date of coverage under this permit~~ the following October 1. The
1425 reports ~~must~~ shall include:

1426 [a. Background Information

1427 (1) The name and permit number of the program submitting the annual report;

1428 (2) The annual report permit year;

1429 (3) Modifications to any operator's department's roles and responsibilities;

1430 (4) Number of new MS4 outfalls and associated acreage by HUC added during the
1431 permit year; and

1432 (5) Signed certification.]

1433 [~~a. b.~~] The status of compliance with permit conditions, an assessment of the
1434 appropriateness of the identified best management practices and progress towards
1435 achieving the identified measurable goals for each of the minimum control measures;

1436 [~~b. c.~~] Results of information collected and analyzed, including monitoring data, if
1437 any, during the reporting period;

1438 [~~c. d.~~] A summary of the stormwater activities the ~~permittee~~ operator plans to
1439 undertake during the next reporting cycle;

1440 [~~d. e.~~] A change in any identified best management practices or measurable goals
1441 for any of the minimum control measures [including steps to be taken to address any
1442 deficiencies];

1443 [~~e. f.~~] Notice that the ~~permittee~~ operator is relying on another government entity to
1444 satisfy some of the permit obligations (if applicable) [~~f. g.~~] ~~and~~

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 66 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

1445 [~~f. g.~~] The approval status of any ~~qualifying local~~ programs pursuant to Section II C
1446 (if appropriate), or the progress towards achieving full approval of these programs;
1447 [~~g. h.~~] Information required pursuant to Section I B [~~10. 9.~~]
1448 [~~h. i.~~] The number of illicit discharges identified and the narrative on how they were
1449 [~~controlled or~~] eliminated pursuant to Section II B 3 f;
1450 [~~i. j.~~] Regulated land-disturbing activities data tracked under Section II 4 c;
1451 [~~j. k.~~] All known permanent stormwater management facility data tracked under
1452 Section II B 5 b (6) [~~and (7)~~] submitted in a database format to be prescribed by the
1453 department. Upon filing of this list, subsequent reports shall only include those new
1454 stormwater management facilities that have been brought online; [~~and~~]
1455 [~~k. l.~~] A list of any new or terminated signed agreements between the operator and
1456 any applicable third parties where the operator has entered into an agreement in
1457 order to implement minimum control measures or portions of minimum control
1458 measures [~~: and~~]
1459 [~~m.~~ Copies of any written comments received during a public comment period
1460 regarding the MS4 Program Plan or any modifications].
1461 F. Program Plan modifications. The ~~department~~ board may require modifications to the
1462 ~~Stormwater Management~~ MS4 Program Plan as needed to address adverse impacts on
1463 receiving surface water quality caused, or contributed to, by discharges from the regulated small
1464 MS4. Modifications ~~requested~~ required by the ~~department~~ board shall be made in writing and
1465 set forth the time schedule to develop and implement the modification. The ~~permittee~~ operator
1466 may propose alternative program modifications and time schedules to meet the objective of the

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 67 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1467 ~~requested~~ required modification. The ~~department~~ board retains the authority to require any
1468 modifications it determines are necessary.

1469 SECTION III

1470 CONDITIONS APPLICABLE TO ALL VSMP PERMITS

1471 ~~NOTE: Monitoring is not required for this permit. If you choose to monitor your stormwater~~
1472 ~~discharges or BMP's in support of your Stormwater Management Program, you must comply~~
1473 ~~with the requirements of subsections A, B, and C, as appropriate.~~

1474 A. Monitoring.

1475 1. Samples and measurements taken for the purpose of monitoring shall be
1476 representative of the monitored activity.

1477 2. Monitoring shall be conducted according to procedures approved under 40 CFR Part
1478 136 (2001) or alternative methods approved by the U.S. Environmental Protection
1479 Agency, unless other procedures have been specified in this permit.

1480 3. The ~~permittee~~ operator shall periodically calibrate and perform maintenance
1481 procedures on all monitoring and analytical instrumentation at intervals that will insure
1482 accuracy of measurements.

1483 B. Records.

1484 1. ~~Records of monitoring information~~ Monitoring records/reports shall include:

1485 a. The date, exact place, and time of sampling or measurements;

1486 b. The individual(s) who performed the sampling or measurements;

1487 c. The date(s) and time(s) analyses were performed;

1488 d. The individual(s) who performed the analyses;

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 68 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

- 1489 e. The analytical techniques or methods used; and
- 1490 f. The results of such analyses.
- 1491 2. The ~~permittee~~ operator shall retain records of all monitoring information, including all
- 1492 calibration and maintenance records and all original strip chart recordings for continuous
- 1493 monitoring instrumentation, copies of all reports required by this permit, and records of
- 1494 all data used to complete the registration statement for this permit, for a period of at least
- 1495 three years from the date of the sample, measurement, report or request for coverage.
- 1496 This period of retention shall be extended automatically during the course of any
- 1497 unresolved litigation regarding the regulated activity or regarding control standards
- 1498 applicable to the ~~permittee~~ operator, or as requested by the board.
- 1499 C. Reporting monitoring results.
- 1500 1. The ~~permittee~~ operator shall submit the results of the monitoring required by this
- 1501 permit ~~not later than the 10th day of the month after monitoring takes place, with the~~
- 1502 annual report unless another reporting schedule is specified elsewhere in this permit.
- 1503 ~~Monitoring results shall be submitted to the department's Urban Program's Section of the~~
- 1504 ~~Division of Soil and Water Conservation.~~
- 1505 2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) [~~or~~] on
- 1506 forms provided, approved or specified by the department [~~or~~ or in any format provided
- 1507 the date, location, parameter, method, and result of the monitoring activity are included.]
- 1508 3. If the ~~permittee~~ operator monitors any pollutant specifically addressed by this permit
- 1509 more frequently than required by this permit using test procedures approved under 40
- 1510 CFR Part 136 (2001) or using other test procedures approved by the U.S. Environmental
- 1511 Protection Agency or using procedures specified in this permit, the results of this

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 69 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1512 monitoring shall be included in the calculation and reporting of the data submitted in the
1513 DMR or reporting form specified by the department.

1514 4. Calculations for all limitations that require averaging of measurements shall utilize an
1515 arithmetic mean unless otherwise specified in this permit.

1516 D. Duty to provide information. The ~~permittee~~ operator shall furnish to the department, within
1517 a reasonable time, any information that the board may request to determine whether cause
1518 exists for modifying, revoking and reissuing, or terminating this permit or to determine
1519 compliance with this permit. The board may require the ~~permittee~~ operator to furnish, upon
1520 request, such plans, specifications, and other pertinent information as may be necessary to
1521 determine the effect of the wastes from his discharge on the quality of ~~state~~ surface waters, or
1522 such other information as may be necessary to accomplish the purposes of the CWA and
1523 Virginia Stormwater Management Act. The ~~permittee~~ operator shall also furnish to the
1524 department upon request, copies of records required to be kept by this permit.

1525 E. Compliance schedule reports. Reports of compliance or noncompliance with, or any
1526 progress reports on, interim and final requirements contained in any compliance schedule of this
1527 permit shall be submitted no later than 14 days following each schedule date.

1528 F. Unauthorized [stormwater] discharges. [~~Except in compliance with this permit, or~~
1529 ~~another permit issued by the board or State Water Control Board, it shall be unlawful for any~~
1530 ~~person to:~~

1531 1. ~~Discharge into] state [surface waters sewage, industrial wastes, other wastes, or any~~
1532 ~~noxious or deleterious substances; or~~

1533 2. ~~Otherwise alter the physical, chemical or biological properties of such] state [surface~~
1534 ~~waters and make them detrimental to the public health, or to animal or aquatic life, or to~~

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 70 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1535 ~~the use of such waters for domestic or industrial consumption, or for recreation, or for~~

1536 ~~other uses.~~

1537 Pursuant to § 10.1-603.2:2 (A), except in compliance with a permit issued by the board, it shall

1538 be unlawful to cause a stormwater discharge from a MS4.]

1539 G. Reports of unauthorized discharges. Any ~~permittee~~ operator of a regulated small MS4

1540 who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or

1541 any noxious or deleterious substance or a hazardous substance or oil in an amount equal to or

1542 in excess of a reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR

1543 Part 117 (2002) or 40 CFR Part 302 (2002) that occurs during a 24-hour period into or upon

1544 state surface waters [~~in violation of Section III F~~] ; or who discharges or causes or allows a

1545 discharge that may reasonably be expected to enter state surface waters [~~in violation of Section~~

1546 ~~III F~~] , shall notify the Department of Environmental Quality ~~and the Department of~~

1547 ~~Conservation and Recreation~~ of the discharge immediately upon discovery of the discharge, but

1548 in no case later than within 24 hours after said discovery. A written report of the unauthorized

1549 discharge shall be submitted to the Department of Environmental Quality and the Department of

1550 Conservation and Recreation, within five days of discovery of the discharge. The written report

1551 shall contain:

1552 1. A description of the nature and location of the discharge;

1553 2. The cause of the discharge;

1554 3. The date on which the discharge occurred;

1555 4. The length of time that the discharge continued;

1556 5. The volume of the discharge;

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 71 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

- 1557 6. If the discharge is continuing, how long it is expected to continue;
- 1558 7. If the discharge is continuing, what the expected total volume of the discharge will be;
- 1559 and
- 1560 8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the
- 1561 present discharge or any future discharges not authorized by this permit.
- 1562 Discharges reportable to the Department of Environmental Quality and the Department of
- 1563 Conservation and Recreation under the immediate reporting requirements of other regulations
- 1564 are exempted from this requirement.
- 1565 H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge
- 1566 including a [] bypass [] or [] upset [, " as defined herein.] should occur from a facility and
- 1567 the discharge enters or could be expected to enter ~~state~~ surface waters, the ~~permittee~~ operator
- 1568 shall promptly notify, in no case later than within 24 hours, the Department of Environmental
- 1569 Quality and the Department of Conservation and Recreation by telephone after the discovery of
- 1570 the discharge. This notification shall provide all available details of the incident, including any
- 1571 adverse affects on aquatic life and the known number of fish killed. The ~~permittee~~ operator shall
- 1572 reduce the report to writing and shall submit it to the Department of Environmental Quality and
- 1573 the Department of Conservation and Recreation within five days of discovery of the discharge in
- 1574 accordance with Section III I 2. Unusual and extraordinary discharges include but are not limited
- 1575 to any discharge resulting from:
- 1576 1. Unusual spillage of materials resulting directly or indirectly from processing
- 1577 operations;
- 1578 2. Breakdown of processing or accessory equipment;
- 1579 3. Failure or taking out of service some or all of the facilities; and

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 72 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1580 4. Flooding or other acts of nature.

1581 I. Reports of noncompliance. The ~~permittee~~ operator shall report any noncompliance which
1582 may adversely affect ~~state~~ surface waters or may endanger public health.

1583 1. An oral report shall be provided within 24 hours to the Department of Environmental
1584 Quality and the Department of Conservation and Recreation from the time the ~~permittee~~
1585 operator becomes aware of the circumstances. The following shall be included as
1586 information ~~that~~ which shall be reported within 24 hours under this paragraph:

1587 a. Any unanticipated bypass; and

1588 b. Any upset which causes a discharge to surface waters.

1589 2. A written report shall be submitted within five days and shall contain:

1590 a. A description of the noncompliance and its cause;

1591 b. The period of noncompliance, including exact dates and times, and if the
1592 noncompliance has not been corrected, the anticipated time it is expected to
1593 continue; and

1594 c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the
1595 noncompliance.

1596 The board or its designee may waive the written report on a case-by-case basis for
1597 reports of noncompliance under Section III I if the oral report has been received
1598 within 24 hours and no adverse impact on ~~state~~ surface waters has been reported.

1599 3. The ~~permittee~~ operator shall report all instances of noncompliance not reported under
1600 Sections III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The
1601 reports shall contain the information listed in Section III I 2.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 73 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1602 NOTE: The immediate (within 24 hours) reports required to be provided to the
1603 Department of Environmental Quality in Sections III G, H and I may be made to the
1604 ~~department's Urban Program's Section of the Division of Soil and Water Conservation~~
1605 appropriate Department of Environmental Quality's Regional Office Pollution Response
1606 Program as found at <http://www.deq.virginia.gov/prep/homepage.html#>. Reports may be
1607 made by telephone or by fax. For reports outside normal working hours, leave a
1608 message and this shall fulfill the immediate reporting requirement. For emergencies, the
1609 Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-
1610 800-468-8892.

1611 4. Where the permittee operator becomes aware ~~that it failed~~ of a failure to submit any
1612 relevant facts [~~in a permit application~~], or ~~submitted~~ submittal of incorrect information
1613 [~~in a permit application or~~] in any report to the department or the Department of
1614 Environmental Quality, it shall promptly submit such facts or correct information.

1615 J. Notice of planned changes.

1616 1. The permittee operator shall give notice to the department as soon as possible of any
1617 planned physical alterations or additions to the permitted facility. Notice is required only
1618 when:

1619 a. The ~~permittee~~ operator plans an alteration or addition to any building, structure,
1620 facility, or installation from which there is or may be a discharge of pollutants, the
1621 construction of which commenced:

1622 (1) After promulgation of standards of performance under §306 of [the] Clean Water
1623 Act that are applicable to such source; or

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

- 1624 (2) After proposal of standards of performance in accordance with §306 of [the]
 1625 Clean Water Act that are applicable to such source, but only if the standards are
 1626 promulgated in accordance with §306 within 120 days of their proposal;
- 1627 b. The operator plans alteration or addition ~~could~~ that would significantly change the
 1628 nature or increase the quantity of pollutants discharged. This notification applies to
 1629 pollutants that are not subject to effluent limitations in this permit; or
- 1630 2. The ~~permittee~~ operator shall give advance notice to the department of any planned
 1631 changes in the permitted facility or activity; ~~that~~ which may result in noncompliance with
 1632 permit requirements.
- 1633 K. Signatory requirements.
- 1634 1. Registration statement. All registration statements shall be signed as follows:
- 1635 a. For a corporation: by a responsible corporate officer. For the purpose of this
 1636 subsection, a responsible corporate officer means: (i) A president, secretary,
 1637 treasurer, or vice-president of the corporation in charge of a principal business
 1638 function, or any other person who performs similar policy- or decision-making
 1639 functions for the corporation, or (ii) the manager of one or more manufacturing,
 1640 production, or operating facilities, provided the manager is authorized to make
 1641 management decisions which govern the operation of the regulated facility including
 1642 having the explicit or implicit duty of making major capital investment
 1643 recommendations, and initiating and directing other comprehensive measures to
 1644 assure long term ~~environmental~~ compliance with environmental laws and regulations;
 1645 the manager can ensure that the necessary systems are established or actions taken
 1646 to gather complete and accurate information for permit application requirements; and

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

- 1647 where authority to sign documents has been assigned or delegated to the manager
1648 in accordance with corporate procedures;
- 1649 b. For a partnership or sole proprietorship: by a general partner or the proprietor,
1650 respectively; or
- 1651 c. For a municipality, state, federal, or other public agency: By either a principal
1652 executive officer or ranking elected official. For purposes of this subsection, a
1653 principal executive officer of a public agency includes:
- 1654 (1) The chief executive officer of the agency, or
- 1655 (2) A senior executive officer having responsibility for the overall operations of a
1656 principal geographic unit of the agency.
- 1657 2. Reports, etc. All reports required by permits, and other information requested by the
1658 board shall be signed by a person described in Section III K 1, or by a duly authorized
1659 representative of that person. A person is a duly authorized representative only if:
- 1660 a. The authorization is made in writing by a person described in Section III K 1;
- 1661 b. The authorization specifies either an individual or a position having responsibility
1662 for the overall operation of the regulated facility or activity such as the position of
1663 plant manager, operator of a well or a well field, superintendent, position of
1664 equivalent responsibility, or an individual or position having overall responsibility for
1665 environmental matters for the ~~company~~ operator. (A duly authorized representative
1666 may thus be either a named individual or any individual occupying a named
1667 position.); and
- 1668 c. The written authorization is submitted to the department.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 76 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1669 3. Changes to authorization. If an authorization under Section III K 2 is no longer
1670 accurate because a different individual or position has responsibility for the overall
1671 operation of the facility, a new authorization satisfying the requirements of Section III K 2
1672 shall be submitted to the department prior to or together with any reports, or information
1673 to be signed by an authorized representative.

1674 4. Certification. Any person signing a document under Sections III K 1 or 2 shall make
1675 the following certification:

1676 "I certify under penalty of law that this document and all attachments were prepared
1677 under my direction or supervision in accordance with a system designed to assure that
1678 qualified personnel properly gather and evaluate the information submitted. Based on
1679 my inquiry of the person or persons who manage the system, or those persons directly
1680 responsible for gathering the information, the information submitted is, to the best of my
1681 knowledge and belief, true, accurate, and complete. I am aware that there are significant
1682 penalties for submitting false information, including the possibility of fine and
1683 imprisonment for knowing violations."

1684 L. Duty to comply. The ~~permittee~~ operator shall comply with all conditions of this permit. Any
1685 permit noncompliance constitutes a violation of the Virginia Stormwater Management Act and
1686 the Clean Water Act, except that noncompliance with certain provisions of this permit may
1687 constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act.
1688 Permit noncompliance is grounds for enforcement action; for permit termination, revocation and
1689 reissuance, or modification; or denial of a permit renewal application.

1690 The ~~permittee~~ operator shall comply with effluent standards or prohibitions established
1691 under §307(a) of the Clean Water Act for toxic pollutants within the time provided in the

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 77 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

1692 regulations that establish these standards or prohibitions or standards for sewage sludge use or
1693 disposal, even if this permit has not yet been modified to incorporate the requirement.

1694 M. Duty to reapply. If the ~~permittee~~ operator wishes to continue an activity regulated by this
1695 permit after the expiration date of this permit, the ~~permittee~~ operator shall submit a new
1696 registration statement at least 90 days before the expiration date of the existing permit, unless
1697 permission for a later date has been granted by the board. The board shall not grant permission
1698 for registration statements to be submitted later than the expiration date of the existing permit.

1699 N. Effect of a permit. This permit does not convey any property rights in either real or
1700 personal property or any exclusive privileges, nor does it authorize any injury to private property
1701 or invasion of personal rights, or any infringement of federal, state or local law or regulations.

1702 O. State law. Nothing in this permit shall be construed to preclude the institution of any legal
1703 action under, or relieve the ~~permittee~~ operator from any responsibilities, liabilities, or penalties
1704 established pursuant to any other state law or regulation or under authority preserved by §510
1705 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Section III U),
1706 and "upset" (Section III V) nothing in this permit shall be construed to relieve the ~~permittee~~
1707 operator from civil and criminal penalties for noncompliance.

1708 P. Oil and hazardous substance liability. Nothing in this permit shall be construed to
1709 preclude the institution of any legal action or relieve the ~~permittee~~ operator from any
1710 responsibilities, liabilities, or penalties to which the ~~permittee~~ operator is or may be subject
1711 under §§62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law [or Section 311
1712 of the Clean Water Act] .

1713 Q. Proper operation and maintenance. The ~~permittee~~ operator shall at all times properly
1714 operate and maintain all facilities and systems of treatment and control (and related

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 78 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

1715 appurtenances) ~~that~~ , which are installed or used by the ~~permittee~~ operator to achieve
1716 compliance with the conditions of this permit. Proper operation and maintenance also includes
1717 effective plant performance, adequate funding, adequate staffing, and adequate laboratory and
1718 process controls, including appropriate quality assurance procedures. This provision requires
1719 the operation of back-up or auxiliary facilities or similar systems ~~that~~ , which are installed by the
1720 ~~permittee~~ operator only when the operation is necessary to achieve compliance with the
1721 conditions of this permit.

1722 R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of
1723 treatment or management of pollutants shall be disposed of in a manner so as to prevent any
1724 pollutant from such materials from entering [state surface] waters.

1725 S. Duty to mitigate. The ~~permittee~~ operator shall take all reasonable steps to minimize or
1726 prevent any discharge in violation of this permit that has a reasonable likelihood of adversely
1727 affecting human health or the environment.

1728 T. Need to halt or reduce activity not a defense. It shall not be a defense for a ~~permittee~~ an
1729 operator in an enforcement action that it would have been necessary to halt or reduce the
1730 permitted activity in order to maintain compliance with the conditions of this permit.

1731 U. Bypass.

1732 1. "Bypass" [, as defined in 4VAC50-60-10,] means the intentional diversion of waste
1733 streams from any portion of a treatment facility. The ~~permittee~~ operator may allow any
1734 bypass to occur that does not cause effluent limitations to be exceeded, but only if it also
1735 is for essential maintenance to assure efficient operation. These bypasses are not
1736 subject to the provisions of Sections III U 2 and U 3.

1737 2. Notice.

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

- 1738 a. Anticipated bypass. If the ~~permittee~~ operator knows in advance of the need for a
1739 bypass, prior notice shall be submitted, if possible at least 10 days before the date of
1740 the bypass.
- 1741 b. Unanticipated bypass. The ~~permittee~~ operator shall submit notice of an
1742 unanticipated bypass as required in Section III I.
- 1743 3. Prohibition of bypass.
- 1744 a. Bypass is prohibited, and the board or its designee may take enforcement action
1745 against ~~a permittee~~ an operator for bypass, unless:
- 1746 (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe
1747 property damage;
- 1748 (2) There were no feasible alternatives to the bypass, such as the use of auxiliary
1749 treatment facilities, retention of untreated wastes, or maintenance during normal
1750 periods of equipment downtime. This condition is not satisfied if adequate back-up
1751 equipment should have been installed in the exercise of reasonable engineering
1752 judgment to prevent a bypass that occurred during normal periods of equipment
1753 downtime or preventive maintenance; and
- 1754 (3) The ~~permittee~~ operator submitted notices as required under Section III U 2.
- 1755 b. The board or its designee may approve an anticipated bypass, after considering
1756 its adverse effects, if the board [or its designee] determines that it will meet the
1757 three conditions listed above in Section III U 3 a.
- 1758 V. Upset.

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

1759 1. An upset [as defined in 4VAC50-60-10.] constitutes an affirmative defense to an
1760 action brought for noncompliance with technology based permit effluent limitations if the
1761 requirements of Section III V 2 are met. A determination made during administrative
1762 review of claims that noncompliance was caused by upset, and before an action for
1763 noncompliance, is not a final administrative action subject to judicial review.

1764 [2. An upset does not include noncompliance to the extent caused by operational error,
1765 improperly designed treatment facilities, inadequate treatment facilities, lack of
1766 preventive maintenance, or careless or improper operation.]

1767 [2. 3.] A ~~permittee~~ An operator who wishes to establish the affirmative defense of upset
1768 shall demonstrate, through properly signed, contemporaneous operating logs, or other
1769 relevant evidence that:

1770 a. An upset occurred and that the ~~permittee~~ operator can identify the cause(s) of the
1771 upset;

1772 b. The permitted facility was at the time being properly operated;

1773 c. The ~~permittee~~ operator submitted notice of the upset as required in Section III I;
1774 and

1775 d. The ~~permittee~~ operator complied with any remedial measures required under
1776 Section III S.

1777 [3. 4.] In any enforcement proceeding the ~~permittee~~ operator seeking to establish the
1778 occurrence of an upset has the burden of proof.

1779 W. Inspection and entry. The ~~permittee~~ operator shall allow the [director department] as the
1780 board's designee, or an authorized representative (including an authorized contractor acting as

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1781 a representative of the administrator), upon presentation of credentials and other documents as
1782 may be required by law, to:

- 1783 1. Enter upon the ~~permittee's~~ operator's premises where a regulated facility or activity is
1784 located or conducted, or where records must be kept under the conditions of this permit;
1785 2. Have access to and copy, at reasonable times, any records that must be kept under
1786 the conditions of this permit;
1787 3. Inspect at reasonable times any facilities, equipment (including monitoring and control
1788 equipment), practices, or operations regulated or required under this permit; and
1789 4. Sample or monitor at reasonable times, for the purposes of assuring permit
1790 compliance or as otherwise authorized by the Clean Water Act and the Virginia
1791 Stormwater Management Act, any substances or parameters at any location.

1792 For purposes of this subsection, the time for inspection shall be deemed reasonable
1793 during regular business hours, and whenever the facility is discharging. Nothing
1794 contained herein shall make an inspection unreasonable during an emergency.

1795 X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause.
1796 The filing of a request by the ~~permittee~~ operator for a permit modification, revocation and
1797 reissuance, or termination, or a notification of planned changes or anticipated noncompliance
1798 does not stay any permit condition.

1799 Y. Transfer of permits.

- 1800 1. Permits are not transferable to any person except after notice to the department.
1801 Except as provided in Section III Y 2, a permit may be transferred by the ~~permittee~~
1802 operator to a new owner or operator only if the permit has been modified or revoked and

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 82 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

1803 reissued, or a minor modification made, to identify the new ~~permittee~~ operator and
1804 incorporate such other requirements as may be necessary under the Virginia
1805 Stormwater Management Act and the Clean Water Act.

1806 2. As an alternative to transfers under Section III Y 1, this permit may be automatically
1807 transferred to a new ~~permittee~~ operator if:

1808 a. The current ~~permittee~~ operator notifies the department at least two days in
1809 advance of the proposed transfer of the title to the facility or property;

1810 b. The notice includes a written agreement between the existing and new ~~permittees~~
1811 operators containing a specific date for transfer of permit responsibility, coverage,
1812 and liability between them; and

1813 c. The board does not notify the existing ~~permittee~~ operator and the proposed new
1814 ~~permittee~~ operator of its intent to modify or revoke and reissue the permit. If this
1815 notice is not received, the transfer is effective on the date specified in the agreement
1816 mentioned in Section III Y 2 b.

1817 Z. Severability. The provisions of this permit are severable, and if any provision of this permit
1818 or the application of any provision of this permit to any circumstance, is held invalid, the
1819 application of such provision to other circumstances, and the remainder of this permit, shall not
1820 be affected thereby.

1821 **FORMS**

1822 Application Form 1-General Information, Consolidated Permits Program, EPA Form 3510-1

1823 ~~(June 1980)~~ (August 1990) (DCR 199-149).

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 83 of 84

4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final) [May 6, 2008 version]

- 1824 Department of Conservation and Recreation Permit Application Fee Form, (DCR 199-145)
- 1825 (09/04).
- 1826 VSMP General Permit Registration Statement for Construction Activity Stormwater
- 1827 Discharges, (DCR01), (DCR 199-146) (09/04).
- 1828 VSMP General Permit Notice of Termination for Construction Activity Stormwater
- 1829 Discharges, (DCR01), (DCR 199-147) (09/04).
- 1830 VSMP General Permit Registration Statement for Stormwater Discharges From Small
- 1831 Municipal Separate Storm Sewer Systems ~~(DCR02)~~ (VAR04), (DCR 199-148) ~~(09/04)~~ [~~(09/07)~~
- 1832 (07/08)].
- 1833
- 1834 DOCUMENTS INCORPORATED BY REFERENCE
- 1835 Illicit Discharge Detection and Elimination – A Guidance Manual for Program Development
- 1836 and Technical Assessments, EPA Cooperative Agreement X-82907801-0, October 2004, by
- 1837 Center for Watershed Protection and Robert Pitt, University of Alabama, available on the
- 1838 Internet at http://www.cwp.org/idde_verify.htm.
- 1839 Getting in Step – A Guide for Conducting Watershed Outreach Campaigns, EPA-841-B-03-
- 1840 002, December 2003, U.S. Environmental Protection Agency, Office of Wetlands, Oceans, and
- 1841 Watersheds, available on the Internet at
- 1842 <http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf>, or may be ordered from
- 1843 National Service Center for Environmental Publications, telephone 1-800-490-9198.
- 1844 Municipal Stormwater Program Evaluation Guidance, EPA-833-R-07-003, January 2007
- 1845 (field test version), U.S. Environmental Protection Agency, Office of Wastewater Management,

VIRGINIA SOIL AND WATER CONSERVATION BOARD

(Project 699)

Page 84 of 84

**4 VAC 50-60, General Virginia Stormwater Management Program (VSMP) Permit for
Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (Final)
[May 6, 2008 version]**

1846 available _____ on _____ the _____ Internet _____ at
1847 http://cfpub.epa.gov/npdes/docs.cfm?program_id=6&view=allprog&sort=name#ms4_guidance,
1848 or may be ordered from National Technical Information Service, 5285 Port Royal Road,
1849 Springfield, VA 22161, telephone 1-800-553-6847 or (703) 605-6000.